

**17B-2a-101. Title.**

- (1) This chapter is known as "Provisions Applicable to Different Types of Local Districts."
- (2) This part is known as the "Cemetery Maintenance District Act."

Enacted by Chapter 329, 2007 General Session

**17B-2a-102. Provisions applicable to cemetery maintenance districts.**

- (1) Each cemetery maintenance district is governed by and has the powers stated in:
  - (a) this part; and
  - (b) Chapter 1, Provisions Applicable to All Local Districts.
- (2) This part applies only to cemetery maintenance districts.
- (3) A cemetery maintenance district is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.
- (5) A cemetery maintenance district shall comply with the applicable provisions of Title 8, Cemeteries.

Amended by Chapter 194, 2014 General Session

**17B-2a-103. Limits on the creation of a cemetery maintenance district.**

A cemetery maintenance district may not be created in a city of the first or second class.

Enacted by Chapter 329, 2007 General Session

**17B-2a-104. Cemetery maintenance district bonding authority.**

A cemetery maintenance district may issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district.

Enacted by Chapter 329, 2007 General Session

**17B-2a-105. Additional duties of a cemetery maintenance district board of trustees.**

In addition to the powers and duties of a board of trustees under Chapter 1, Part 3, Board of Trustees, each cemetery maintenance district board of trustees shall beautify, improve, and maintain each cemetery within the district.

Enacted by Chapter 329, 2007 General Session

**17B-2a-106. Appointment of board of trustees members -- Vacancies.**

- (1) If the area of a cemetery maintenance district is included entirely within the boundaries of a single municipality, each member of its board of trustees shall be appointed and each vacancy on the board of trustees shall be filled by a person

appointed by the legislative body of that municipality, as provided in Section 17B-1-304.

(2) For each other cemetery maintenance district, each member of its board of trustees shall be appointed and each vacancy on the board of trustees shall be filled by a person appointed by the legislative body of the county in which the district is located, as provided in Section 17B-1-304.

Enacted by Chapter 329, 2007 General Session

**17B-2a-107. Property within a cemetery maintenance district to be proportionately benefitted and equally assessed.**

Each parcel of property within a cemetery maintenance district shall be:

(1) benefitted by the creation of the district and by improvements made by the district, ratably with all other parcels of property within the district in proportion to the parcel's taxable value; and

(2) assessed equally in proportion to its taxable value for the purpose of cemetery improvement and maintenance.

Enacted by Chapter 329, 2007 General Session

**17B-2a-201. Title.**

This part is known as the "Drainage District Act."

Enacted by Chapter 329, 2007 General Session

**17B-2a-202. Definitions.**

As used in this part:

(1) "Ditch" includes a drain or natural or constructed watercourse, whether open, covered, or tiled, and whether inside or outside the drainage district.

(2) "Drainage" includes the reclamation, protection, or betterment of land by leading, carrying, withholding, or pumping excess water from land through canals, ditches, pipes, or other means.

Enacted by Chapter 329, 2007 General Session

**17B-2a-203. Provisions applicable to drainage districts.**

(1) Each drainage district is governed by and has the powers stated in:

(a) this part; and

(b) Chapter 1, Provisions Applicable to All Local Districts.

(2) This part applies only to drainage districts.

(3) A drainage district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

Enacted by Chapter 329, 2007 General Session

**17B-2a-204. Prohibition against creating a drainage district.**

No new drainage district may be created.

Enacted by Chapter 329, 2007 General Session

**17B-2a-205. Additional drainage district powers.**

In addition to the powers conferred on a drainage district under Section 17B-1-103, a drainage district may:

- (1) enter upon land for the purpose of examining the land or making a survey;
- (2) locate a necessary drainage canal with any necessary branches on land that the district's board of trustees considers best;
- (3) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;
- (4) after the payment or tender of compensation allowed, go upon land to construct proposed works, and thereafter enter upon that land to maintain or repair the works;
- (5) appropriate water for useful and beneficial purposes;
- (6) regulate and control, for the benefit of landholders within the district, all water developed, appropriated, or owned by the district;
- (7) appropriate, use, purchase, develop, sell, and convey water and water rights in the same manner and for the same use and purposes as a private person;
- (8) widen, straighten, deepen, enlarge, or remove any obstruction or rubbish from any watercourse, whether inside or outside the district; and
- (9) if necessary, straighten a watercourse by cutting a new channel upon land not already containing the watercourse, subject to the landowner receiving compensation for the land occupied by the new channel and for any damages, as provided under the law of eminent domain.

Enacted by Chapter 329, 2007 General Session

**17B-2a-206. Drainage district board of trustees.**

(1) Subject to Subsection (2), each member of the board of trustees of a drainage district shall be appointed by the legislative body of the county in which the district is located.

(2) If a drainage district is located in more than one county, a county legislative body may not appoint more than two members.

Enacted by Chapter 329, 2007 General Session

**17B-2a-207. Public highways, roads, or streets or railroad rights-of-way benefitted by district works.**

If a drainage district board of trustees determines that a public highway, road, street, or railroad right-of-way is or will be benefitted by district drainage canals or other works that have been or will be constructed:

- (1) the district shall assess benefits and taxes against the public highway, road, street, or railroad right-of-way in the same manner as if the highway, road, street, or

railroad right-of-way were in private ownership;

(2) the district may treat the highway, road, street, or railroad right-of-way the same as it would treat private land; and

(3) the state or local entity having control of the public highway, road, or street or the owner of the railroad right-of-way shall pay the applicable taxes assessed against the land, whether or not it owns the fee simple title to the land covered by the highway, road, street, or railroad right-of-way.

Enacted by Chapter 329, 2007 General Session

**17B-2a-208. Bridge or culvert across a public highway, road, or street, or a railroad right-of-way -- Notice to railway authority -- Option of railway authority to construct bridge or culvert.**

(1) (a) A drainage district may construct each necessary bridge and culvert across or under a public highway, road, street, or railroad right-of-way to enable the district to construct and maintain a canal, drain, or ditch necessary as part of the drainage system of the district.

(b) Before a drainage district constructs a bridge or culvert across or under a railroad right-of-way, the district shall first give notice to the railway authority empowered to build or construct bridges and culverts.

(2) (a) A railway authority may, within 30 days after the notice under Subsection (1)(b) and at its own expense, build the bridge or culvert according to its own plans.

(b) Each railway authority that builds a bridge or culvert as provided in Subsection (2)(a) shall construct the bridge or culvert:

(i) so as not to interfere with the free and unobstructed flow of water passing through the canal or drain; and

(ii) at points that are indicated by a competent drainage engineer.

Enacted by Chapter 329, 2007 General Session

**17B-2a-209. State land treated the same as private land -- Consent needed to affect school and institutional trust land -- Owner of state land has same rights as owner of private land.**

(1) Subject to Subsection (2), a drainage district may treat state land the same as private land with respect to the drainage of land for agricultural purposes.

(2) A drainage district may not affect school or institutional trust land under this part or Chapter 1, Provisions Applicable to All Local Districts, without the consent of the director of the School and Institutional Trust Lands Administration acting in accordance with Sections 53C-1-102 and 53C-1-303.

(3) The state and each person holding unpatented state land under entries or contracts of purchase from the state have all the rights, privileges, and benefits under this part and Chapter 1, Provisions Applicable to All Local Districts, that a private owner of that land would have.

Enacted by Chapter 329, 2007 General Session

**17B-2a-210. District required to minimize damage when entering on land --  
Penalty for preventing or prohibiting a district from entering on land.**

(1) When entering upon land for the purpose of constructing, maintaining, or repairing works, a drainage district may not do more damage than the necessity of the occasion requires.

(2) (a) A person who willfully prevents or prohibits an agent of a drainage district from entering upon land when the district is authorized to enter the land is guilty of a class C misdemeanor.

(b) (i) Each person found guilty under Subsection (2)(a) shall be fined a sum not to exceed \$25 per day for each day the person prevented or prohibited the district from entering upon land.

(ii) Each fine under Subsection (2)(b)(i) shall be paid to the district.

Enacted by Chapter 329, 2007 General Session

**17B-2a-211. Penalty for wrongfully damaging a district work.**

(1) A person who wrongfully and purposely fills, cuts, injures, destroys, or impairs the usefulness of a drain, ditch, or other work of a drainage district is guilty of a class C misdemeanor.

(2) Each person who negligently, wrongfully, or purposely fills, cuts, injures, destroys, or impairs the usefulness of a drain, ditch, levee, or other work of a drainage district or obstructs or fills any natural stream or outlet used by a drainage district, whether inside or outside the district, shall be liable to the district for all resulting damages.

Enacted by Chapter 329, 2007 General Session

**17B-2a-301. Title.**

This part is known as the "Fire Protection District Act."

Enacted by Chapter 329, 2007 General Session

**17B-2a-302. Prohibition against creating new fire protection districts.**

No new fire protection district may be created.

Enacted by Chapter 329, 2007 General Session

**17B-2a-303. Provisions applicable to fire protection districts.**

(1) Each fire protection district is governed by and has the powers stated in:

(a) this part; and

(b) Chapter 1, Provisions Applicable to All Local Districts.

(2) This part applies only to fire protection districts.

(3) A fire protection district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

Enacted by Chapter 329, 2007 General Session

**17B-2a-304. Additional fire protection district power.**

In addition to the powers conferred on a fire protection district under Section 17B-1-103, a fire protection district may issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district.

Enacted by Chapter 329, 2007 General Session

**17B-2a-305. Fire protection districts board of trustees -- Board of a countywide district -- Validation of previous boards.**

(1) Except as provided in Subsection (2), the board of trustees of a fire protection district may be appointed or elected, as provided in the documents establishing the district.

(2) If the area of a fire protection district consists of all the area of a single county excluding the area of all first and second class cities in the county, the legislative body of that county shall constitute the board of trustees of the fire protection district.

(3) The composition and method of appointing or electing board of trustees members of each fire protection district existing on April 30, 2007 are validated, ratified, and confirmed.

Enacted by Chapter 329, 2007 General Session

**17B-2a-306. Offices of a fire protection district board of trustees and principal place of business.**

Each office of a fire protection district board of trustees and each principal place of business of a fire protection district shall be within:

- (1) the district; or
- (2) the county in which the district is located and as near as possible to the district.

Enacted by Chapter 329, 2007 General Session

**17B-2a-401. Title.**

This part is known as the "Improvement District Act."

Enacted by Chapter 329, 2007 General Session

**17B-2a-402. Provisions applicable to improvement districts.**

- (1) Each improvement district is governed by and has the powers stated in:
  - (a) this part; and
  - (b) Chapter 1, Provisions Applicable to All Local Districts.
- (2) This part applies only to improvement districts.
- (3) An improvement district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

Enacted by Chapter 329, 2007 General Session

**17B-2a-403. Additional improvement district powers.**

(1) In addition to the powers conferred on an improvement district under Section 17B-1-103, an improvement district may:

(a) acquire through construction, purchase, gift, or condemnation, or any combination of these methods, and may operate all or any part of:

(i) a system for the supply, treatment, and distribution of water;

(ii) a system for the collection, treatment, and disposition of sewage;

(iii) a system for the collection, retention, and disposition of storm and flood waters;

(iv) a system for the generation, distribution, and sale of electricity, subject to Section 17B-2a-406; and

(v) a system for the transmission of natural or manufactured gas if the system is:

(A) connected to a gas plant, as defined in Section 54-2-1, of a gas corporation, as defined in Section 54-2-1, regulated under Section 54-4-1; and

(B) to be used to facilitate gas utility service within the district if the gas utility service is not available within the district prior to the acquisition or construction of the system;

(b) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;

(c) appropriate or otherwise acquire water and water rights inside or outside its boundaries;

(d) sell water or other services to consumers residing outside its boundaries;

(e) enter into a contract with a gas corporation regulated under Section 54-4-1 to provide for the operation or maintenance of all or part of a system for the transmission of natural or manufactured gas or to lease or sell all or a portion of that system to a gas corporation;

(f) enter into a contract with a person for:

(i) the purchase or sale of water or electricity;

(ii) the use of any facility owned by the person; or

(iii) the purpose of handling the person's industrial and commercial waste and sewage;

(g) require pretreatment of industrial and commercial waste and sewage; and

(h) impose a penalty or surcharge against a public entity or other person with which the district has entered into a contract for the construction, acquisition, or operation of all or a part of a system for the collection, treatment, and disposal of sewage, if the public entity or other person fails to comply with the provisions of the contract.

(2) The new gas utility service under Subsection (1)(a)(v)(B) shall be provided by a gas corporation regulated under Section 54-4-1 and not by the district.

(3) An improvement district may not begin to provide sewer service to an area where sewer service is already provided by an existing sewage collection system

operated by a municipality or other political subdivision unless the municipality or other political subdivision gives its written consent.

Renumbered and Amended by Chapter 329, 2007 General Session

**17B-2a-404. Improvement district board of trustees.**

(1) As used in this section:

(a) "County district" means an improvement district that does not include within its boundaries any territory of a municipality.

(b) "County member" means a member of a board of trustees of a county district.

(c) "Electric district" means an improvement district that was created for the purpose of providing electric service.

(d) "Included municipality" means a municipality whose boundaries are entirely contained within but do not coincide with the boundaries of an improvement district.

(e) "Municipal district" means an improvement district whose boundaries coincide with the boundaries of a single municipality.

(f) "Regular district" means an improvement district that is not a county district, electric district, or municipal district.

(g) "Remaining area" means the area of a regular district that:

(i) is outside the boundaries of an included municipality; and

(ii) includes the area of an included municipality whose legislative body elects, under Subsection (4)(a)(ii), not to appoint a member to the board of trustees of the regular district.

(h) "Remaining area member" means a member of a board of trustees of a regular district who is appointed, or, if applicable, elected to represent the remaining area of the district.

(2) The legislative body of the municipality included within a municipal district may:

(a) elect, at the time of the creation of the district, to be the board of trustees of the district; and

(b) adopt at any time a resolution providing for:

(i) the election of board of trustees members, as provided in Section 17B-1-306; or

(ii) the appointment of board of trustees members, as provided in Section 17B-1-304.

(3) (a) The legislative body of a county whose unincorporated area is partly or completely within a county district may:

(i) elect, at the time of the creation of the district, to be the board of trustees of the district, even though a member of the legislative body of the county may not meet the requirements of Subsection 17B-1-302(1)(a);

(ii) adopt at any time a resolution providing for:

(A) the election of board of trustees members, as provided in Section 17B-1-306; or

(B) except as provided in Subsection (4), the appointment of board of trustees members, as provided in Section 17B-1-304; and



(iii) if the conditions of Subsection (3)(b) are met, appoint a member of the legislative body of the county to the board of trustees, except that the legislative body of the county may not appoint more than three members of the legislative body of the county to the board of trustees.

(b) A legislative body of a county whose unincorporated area is partly or completely within a county district may take an action under Subsection (3)(a)(iii) if:

(i) more than 35% of the residences within a county district that receive service from the district are seasonally occupied homes, as defined in Subsection 17B-1-302(1)(b)(i)(B);

(ii) the board of trustees are appointed by the legislative body of the county; and

(iii) there are at least two appointed board members who meet the requirements of Subsection 17B-1-302(1), except that a member of the legislative body of the county need not satisfy the requirements of Subsection 17B-1-302(1).

(4) Subject to Subsection (6)(d), the legislative body of a county may not adopt a resolution providing for the appointment of board of trustees members as provided in Subsection (3)(a)(ii)(B) at any time after the county district is governed by an elected board of trustees unless:

(a) the elected board has ceased to function;

(b) the terms of all of the elected board members have expired without the board having called an election; or

(c) the elected board of trustees unanimously adopts a resolution approving the change from an elected to an appointed board.

(5) (a) (i) Except as provided in Subsection (5)(a)(ii), the legislative body of each included municipality shall each appoint one member to the board of trustees of a regular district.

(ii) The legislative body of an included municipality may elect not to appoint a member to the board under Subsection (5)(a)(i).

(b) Except as provided in Subsection (6), the legislative body of each county whose boundaries include a remaining area shall appoint all other members to the board of trustees of a regular district.

(6) Notwithstanding Subsection (3), each remaining area member of a regular district and each county member of a county district shall be elected, as provided in Section 17B-1-306, if:

(a) the petition or resolution initiating the creation of the district provides for remaining area or county members to be elected;

(b) the district holds an election to approve the district's issuance of bonds;

(c) for a regular district, an included municipality elects, under Subsection (5)(a)(ii), not to appoint a member to the board of trustees; or

(d) (i) at least 90 days before the municipal general election or regular general election, as applicable, a petition is filed with the district's board of trustees requesting remaining area members or county members, as the case may be, to be elected; and

(ii) the petition is signed by registered voters within the remaining area or county district, as the case may be, equal in number to at least 10% of the number of registered voters within the remaining area or county district, respectively, who voted in the last gubernatorial election.

(7) Subject to Section 17B-1-302, the number of members of a board of trustees

of a regular district shall be:

- (a) the number of included municipalities within the district, if:
    - (i) the number is an odd number; and
    - (ii) the district does not include a remaining area;
  - (b) the number of included municipalities plus one, if the number of included municipalities within the district is even; and
  - (c) the number of included municipalities plus two, if:
    - (i) the number of included municipalities is odd; and
    - (ii) the district includes a remaining area.
- (8) (a) Except as provided in Subsection (8)(b), each remaining area member of the board of trustees of a regular district shall reside within the remaining area.
- (b) Notwithstanding Subsection (8)(a) and subject to Subsection (8)(c), each remaining area member shall be chosen from the district at large if:
- (i) the population of the remaining area is less than 5% of the total district population; or
  - (ii) (A) the population of the remaining area is less than 50% of the total district population; and
  - (B) the majority of the members of the board of trustees are remaining area members.
- (c) Application of Subsection (8)(b) may not prematurely shorten the term of any remaining area member serving the remaining area member's elected or appointed term on May 11, 2010.
- (9) If the election of remaining area or county members of the board of trustees is required because of a bond election, as provided in Subsection (9)(b):
- (a) a person may file a declaration of candidacy if:
    - (i) the person resides within:
      - (A) the remaining area, for a regular district; or
      - (B) the county district, for a county district; and
    - (ii) otherwise qualifies as a candidate;
  - (b) the board of trustees shall, if required, provide a ballot separate from the bond election ballot, containing the names of candidates and blanks in which a voter may write additional names; and
  - (c) the election shall otherwise be governed by Title 20A, Election Code.
- (10) (a) (i) This Subsection (10) applies to the board of trustees members of an electric district.
- (ii) Subsections (2) through (9) do not apply to an electric district.
  - (b) The legislative body of the county in which an electric district is located may appoint the initial board of trustees of the electric district as provided in Section 17B-1-304.
  - (c) After the initial board of trustees is appointed as provided in Subsection (10)(b), each member of the board of trustees of an electric district shall be elected by persons using electricity from and within the district.
  - (d) Each member of the board of trustees of an electric district shall be a user of electricity from the district and, if applicable, the division of the district from which elected.
  - (e) The board of trustees of an electric district may be elected from geographic

divisions within the district.

(f) A municipality within an electric district is not entitled to automatic representation on the board of trustees.

Amended by Chapter 357, 2014 General Session

Amended by Chapter 362, 2014 General Session

Amended by Chapter 377, 2014 General Session

**17B-2a-405. Board of trustees of certain sewer improvement districts.**

(1) As used in this section:

(a) "Jurisdictional boundaries" means:

(i) for a qualified county, the boundaries that include:

(A) the area of the unincorporated part of the county that is included within a sewer improvement district; and

(B) the area of each nonappointing municipality that is included within the sewer improvement district; and

(ii) for a qualified municipality, the boundaries that include the area of the municipality that is included within a sewer improvement district.

(b) "Nonappointing municipality" means a municipality that:

(i) is partly included within a sewer improvement district; and

(ii) is not a qualified municipality.

(c) "Qualified county" means a county:

(i) some or all of whose unincorporated area is included within a sewer improvement district; or

(ii) which includes within its boundaries a nonappointing municipality.

(d) "Qualified county member" means a member of a board of trustees of a sewer improvement district appointed under Subsection (3)(a)(ii).

(e) "Qualified municipality" means a municipality that is partly or entirely included within a sewer improvement district that includes:

(i) all of the municipality that is capable of receiving sewage treatment service from the sewer improvement district; and

(ii) more than half of:

(A) the municipality's land area; or

(B) the assessed value of all private real property within the municipality.

(f) "Qualified municipality member" means a member of a board of trustees of a sewer improvement district appointed under Subsection (3)(a)(i).

(g) "Sewer improvement district" means an improvement district that:

(i) provides sewage collection, treatment, and disposal service; and

(ii) made an election before 1954 under Laws of Utah 1953, Chapter 29, to enable it to continue to appoint its board of trustees members as provided in this section.

(2) (a) Notwithstanding Section 17B-2a-404, the board of trustees members of a sewer improvement district shall be appointed as provided in this section.

(b) The board of trustees of a sewer improvement district may revoke the election under Subsection (1)(d)(ii) and become subject to the provisions of Section 17B-2a-404 only by the unanimous vote of all members of the sewer improvement

district's board of trustees at a time when there is no vacancy on the board.

(3) (a) The board of trustees of each sewer improvement district shall consist of:

(i) at least one person but not more than three persons appointed by the mayor of each qualified municipality, with the consent of the legislative body of that municipality; and

(ii) at least one person but not more than three persons appointed by:

(A) the county executive, with the consent of the county legislative body, for a qualified county operating under a county executive-council form of county government; or

(B) the county legislative body, for each other qualified county.

(b) Each qualified county member appointed under Subsection (3)(a)(ii) shall represent the area within the jurisdictional boundaries of the qualified county.

(4) Notwithstanding Subsection 17B-1-302(2), the number of board of trustees members of a sewer improvement district shall be the number that results from application of Subsection (3)(a).

(5) Except as provided in this section, an appointment to the board of trustees of a sewer improvement district is governed by Section 17B-1-304.

(6) A quorum of a board of trustees of a sewer improvement district consists of members representing more than 50% of the total number of qualified county and qualified municipality votes under Subsection (7).

(7) (a) Subject to Subsection (7)(b), each qualified county and each qualified municipality is entitled to one vote on the board of trustees of a sewer improvement district for each \$10,000,000, or fractional part larger than 1/2 of that amount, of assessed valuation of private real property taxable for district purposes within the respective jurisdictional boundaries, as shown by the assessment records of the county and evidenced by a certificate of the county auditor.

(b) Notwithstanding Subsection (7)(a), each qualified county and each qualified municipality shall have at least one vote.

(8) If a qualified county or qualified municipality appoints more than one board member, all the votes to which the qualified county or qualified municipality is entitled under Subsection (7) for an item of board business shall collectively be cast by a majority of the qualified county members or qualified municipal members, respectively, present at a meeting of the board of trustees.

Amended by Chapter 360, 2008 General Session

**17B-2a-406. Improvement districts providing electric service -- Public Service Commission jurisdiction -- Exceptions.**

(1) As used in this section:

(a) "Commission" means the Public Service Commission of Utah established in Section 54-1-1.

(b) "Electric corporation" has the same meaning as "electrical corporation" defined in Section 54-2-1.

(c) "Electric improvement district" means an improvement district that provides electric service as authorized under Subsection 17B-2a-403(1)(a)(iv).

(d) "Stranded asset" means an asset that:

- (i) an electric corporation owns and operates;
- (ii) is designed to serve an area that is:
  - (A) within the electric corporation's certificated service area before the area is removed from the certificated service area by commission order as provided in Subsection (3)(b)(i)(B)(II); and

- (B) within the boundary of an electric improvement district; and
  - (iii) will not be useful to or used by the electric corporation after removal of the area from the electric corporation's certificated service area.

(2) An electric improvement district is a public utility and subject to the jurisdiction of the commission.

(3) (a) Except as provided in Subsection (3)(b), an electric improvement district:

- (i) may include only an area where:

- (A) no retail electricity has been provided to commercial, industrial, residential, and other users of electricity from an investor-owned utility within any part of an area certificated by the commission or an area adjacent to that area, municipal agency, or electric cooperative within the five years immediately preceding September 1, 1985; and

- (B) electric service is provided to at least one user of electricity within the electric service district as of September 1, 1985; and

- (ii) shall have filed an application for certification and received approval by the commission by September 1, 1986.

(b) (i) An electric improvement district created after May 11, 2009 may provide electric service within the boundary of the improvement district if:

- (A) no part of the boundary of the electric improvement district is closer than 40 miles to an existing service line of an electric corporation;

- (B) (I) no part of the area within the boundary of the electric improvement district is within the certificated service area of an electric corporation; or

- (II) the area within the boundary of the electric improvement district that is also within the certificated service area of an electric corporation is removed from the electric corporation's certificated service area by commission order in a proceeding initiated by a petition filed by and at the discretion of the electric corporation; and

- (C) before January 1, 2010, the electric improvement district receives a certificate of public convenience and necessity from the commission authorizing the electric improvement district to provide electric service to the area within the boundary of the electric improvement district.

- (ii) An electric improvement district that provides electric service as provided in Subsection (3)(b)(i) shall pay an electric corporation an amount equal to the fair market value of each stranded asset of the electric corporation.

(4) Nothing in this part may be construed to give the commission jurisdiction over:

- (a) an improvement district, other than an electric improvement district;
  - (b) a municipality; or
  - (c) an association of municipalities organized under Title 11, Chapter 13, Interlocal Cooperation Act.

(5) Before an electric improvement district serves any customer, the electric improvement district shall obtain a certificate of public convenience and necessity from

the commission.

(6) (a) Section 54-7-12 does not apply to rate changes of an electric improvement district if:

(i) the district is organized for the purpose of distributing electricity to customers within the boundary of the district on a not-for-profit basis;

(ii) the schedule of new rates or other change that results in new rates has been approved by the board of trustees of the district;

(iii) prior to the implementation of any rate increases, the district first holds a public meeting for all its customers to whom mailed notice of the meeting is sent at least 10 days prior to the meeting; and

(iv) the district has filed the schedule of new rates or other change with the commission.

(b) The commission shall make the district's schedule of new rates or other change available for public inspection.

Amended by Chapter 381, 2014 General Session

**17B-2a-501. Title.**

This part is known as the "Irrigation District Act."

Enacted by Chapter 329, 2007 General Session

**17B-2a-502. Provisions applicable to irrigation districts.**

(1) Each irrigation district is governed by and has the powers stated in:

(a) this part; and

(b) Chapter 1, Provisions Applicable to All Local Districts.

(2) This part applies only to irrigation districts.

(3) An irrigation district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

Enacted by Chapter 329, 2007 General Session

**17B-2a-503. Additional irrigation district powers -- No authority to levy property tax.**

(1) In addition to the powers conferred on an irrigation district under Section 17B-1-103, an irrigation district may:

(a) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;

(b) purchase stock of an irrigation, canal, or reservoir company;

(c) enter upon any land in the district to make a survey and to locate and construct a canal and any necessary lateral;

(d) convey water rights or other district property to the United States as partial or full consideration under a contract with the United States;

(e) pursuant to a contract with the United States, lease or rent water to private

land, an entryman, or a municipality in the neighborhood of the district;

(f) if authorized under a contract with the United States, collect money on behalf of the United States in connection with a federal reclamation project and assume the incident duties and liabilities;

(g) acquire water from inside or outside the state;

(h) subject to Subsection (2), lease, rent, or sell water not needed by the owners of land within the district:

(i) to a municipality, corporation, association, or individual inside or outside the district;

(ii) for irrigation or any other beneficial use; and

(iii) at a price and on terms that the board considers appropriate; and

(i) repair a break in a reservoir or canal or remedy any other district disaster.

(2) (a) The term of a lease or rental agreement under Subsection (1)(h) may not exceed five years.

(b) A vested or prescriptive right to the use of water may not attach to the land because of a lease or rental of water under Subsection (1)(h).

(3) Notwithstanding Subsection 17B-1-103(2)(g), an irrigation district may not levy a property tax.

Enacted by Chapter 329, 2007 General Session

**17B-2a-504. Irrigation district board of trustees -- Bond for board of trustees members and district if the district is appointed as fiscal or other agent for the United States.**

(1) (a) One board of trustees member shall be elected from each division established as provided in Section 17B-2a-505.

(b) Each landowner within an irrigation district may vote for one board of trustees member for the division in which the landowner's land is located.

(c) Each landowner is entitled to cast one vote for each acre-foot or fraction of an acre-foot of water allotted to the land owned by the landowner.

(2) (a) If an irrigation district is appointed fiscal agent of the United States or is authorized by the United States to collect money on behalf of the United States with respect to a federal project:

(i) each member of the district's board of trustees shall:

(A) execute an official bond in the amount required by the Secretary of the Interior, conditioned upon the faithful discharge of the trustee's duties; and

(B) file the official bond in the office of the clerk of the county in which the district is located; and

(ii) the irrigation district shall execute an additional bond for the district's faithful discharge of its duties as fiscal or other agent of the United States.

(b) The United States or any person injured by the failure of a member of the board of trustees or of the district to perform fully, promptly, and completely a duty may sue upon the official bond.

Enacted by Chapter 329, 2007 General Session

**17B-2a-505. Divisions.**

(1) The board of trustees of each irrigation district shall divide the district into divisions, each as nearly equal in size to the others as practicable.

(2) The number of divisions shall be equal to the number of board of trustees members.

(3) At least 30 days before an election of board of trustees members, the board shall redivide the district into divisions if, since the last time the board divided the district into divisions:

(a) the district has annexed land under Chapter 1, Part 4, Annexation;

(b) land has been withdrawn from the district under Chapter 1, Part 5, Withdrawal; or

(c) the number of board of trustees members has been changed.

Enacted by Chapter 329, 2007 General Session

**17B-2a-506. Different use charges for different units -- Use charges based on the size of the land served -- Use charge may not be based on property value.**

(1) An irrigation district may:

(a) divide the district into units and apply different use charges to the different units; and

(b) base use charges upon the amount of water or electricity the district provides, the area of the land served, or any other reasonable basis, as determined by the board of trustees.

(2) If an irrigation district imposes a use charge based on the size of the land served or the amount of water allotted to the land:

(a) the assessor of the county in which the land is located shall assist the irrigation district in ascertaining the identity of a parcel served by the district;

(b) the district shall notify the treasurer of the county in which the land is located of the charge to be imposed for each parcel of land served by the district; and

(c) the treasurer of the county in which the land is located:

(i) shall:

(A) provide each landowner a notice of use charges as part of the annual tax notice as an additional charge separate from ad valorem taxes;

(B) collect, receive, and provide an accounting for all money belonging to the district from use charges; and

(C) remit to the irrigation district, by the tenth day of each month, the funds previously collected by the county as use charges on the district's behalf; and

(ii) may receive and account for use charges separately from taxes upon real estate for county purposes.

(3) (a) A use charge described in Subsection (2)(b) shall become a lien on the land served as provided in Section 17B-1-902 except that the certification described in Subsection 17B-1-902(1)(a) is not required.

(b) A lien described in Subsection (3)(a) shall remain in force until the use charge is paid.

(c) The county treasurer shall release a lien described in Subsection (3)(a) upon receipt of full payment of the use charge.



(4) A use charge may not be calculated on the basis of property value and does not constitute an ad valorem property tax or other tax.

Amended by Chapter 97, 2012 General Session

**17B-2a-507. Right-of-way over state land.**

Each irrigation district has a right-of-way on land that is or becomes the property of the state to locate, construct, and maintain district works.

Enacted by Chapter 329, 2007 General Session

**17B-2a-508. Inclusion of state land in an irrigation district.**

(1) State land that is not under a contract of sale may be included in an irrigation district upon petition by the state entity responsible for the administration of the land.

(2) State land included in an irrigation district may not be:

(a) assessed by the district; or

(b) the subject of use charges imposed by the district.

(3) The entity responsible for the administration of the state land to be included in an irrigation district and the state engineer shall make a thorough examination of the benefits to accrue to the land by its inclusion in the district and by the acquisition of water rights for the land.

(4) (a) The entity responsible for the administration of the state land to be included in an irrigation district may enter into a contract with the district, specifying the land benefitted and the amount of benefit, as determined under Subsection (3).

(b) Each contract under Subsection (4)(a) shall provide that the entity responsible for the administration of the state land shall make annual payments to the district, to be applied to the cost of constructing the district's irrigation works, until the full amount of the benefit is paid.

(c) The entity responsible for the administration of state land included in an irrigation district may, at its option, pay the full amount of the contract at any time.

Enacted by Chapter 329, 2007 General Session

**17B-2a-509. State engineer not prohibited from increasing water allotment.**

Nothing in this part may be construed to prohibit the state engineer, upon petition by an irrigation district board of trustees, from increasing the maximum allotment of water for one or more tracts of land within the district if the state engineer determines that the land cannot be beneficially irrigated with the currently allotted water.

Enacted by Chapter 329, 2007 General Session

**17B-2a-510. Rules for the distribution and use of water.**

(1) Each irrigation district board of trustees shall establish equitable rules for the distribution and use of water among the owners of land in the district.

(2) The board of trustees of an irrigation district that establishes rules under

Subsection (1) shall, as soon as the rules are adopted, print them in convenient form for distribution in the district.

Enacted by Chapter 329, 2007 General Session

**17B-2a-511. Distribution of water under a contract with the United States.**

If an irrigation district acquires the right to use water under a contract with the United States, the district shall distribute and apportion water according to the contract and federal law, rules, and regulations.

Enacted by Chapter 329, 2007 General Session

**17B-2a-512. Removal of land from the assessor's roll.**

(1) An irrigation district may direct a county treasurer to remove parcels of land from the district's billing if:

(a) the land is publicly dedicated to a street, highway, or road; or  
(b) the use of the land has so permanently changed as to prevent the beneficial use of water on it.

(2) Each county treasurer shall comply with the direction of an irrigation district under Subsection (1).

Enacted by Chapter 329, 2007 General Session

**17B-2a-513. Temporary application of water to land.**

(1) Upon the written application of the owner of land that has no water allotment or an insufficient water allotment, an irrigation district board of trustees may temporarily permit water to be applied to the land and charge the owner for that water.

(2) Subsection (1) may not be construed to affect an irrigation district's permanent water allotments.

Enacted by Chapter 329, 2007 General Session

**17B-2a-514. Assignment of the right to water.**

With the consent of the irrigation district board of trustees, a landowner in the district may assign the right to some or all of the water apportioned to the landowner's land for any one year to another bona fide landowner in the district for use in the district, if all charges for the water have been paid.

Enacted by Chapter 329, 2007 General Session

**17B-2a-515. Distribution of water when supply is inadequate.**

If an irrigation district's water supply is not sufficient to supply all the needs within the district, the board of trustees may distribute water as the board considers best for all concerned, subject to distribution and apportionment requirements of a district contract with the United States and applicable federal law, rule, and regulation.

Enacted by Chapter 329, 2007 General Session

**17B-2a-516. Diversions of water subject to eminent domain law.**

Nothing in this part may be construed to authorize any person to divert the water of a river, creek, stream, canal, or reservoir to the detriment of anyone having a prior right to the water, unless compensation is previously determined and paid according to the laws of eminent domain.

Enacted by Chapter 329, 2007 General Session

**17B-2a-601. Title.**

This part is known as the "Metropolitan Water District Act."

Enacted by Chapter 329, 2007 General Session

**17B-2a-602. Provisions applicable to metropolitan water districts.**

- (1) Each metropolitan water district is governed by and has the powers stated in:
  - (a) this part; and
  - (b) Chapter 1, Provisions Applicable to All Local Districts.
- (2) This part applies only to metropolitan water districts.
- (3) A metropolitan water district is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

Enacted by Chapter 329, 2007 General Session

**17B-2a-603. Additional metropolitan water district powers.**

In addition to the powers conferred on a metropolitan water district under Section 17B-1-103, a metropolitan water district may:

- (1) acquire or lease any real or personal property or acquire any interest in real or personal property, as provided in Subsections 17B-1-103(2)(a) and (b), whether inside or outside the district or inside or outside the state;
- (2) encumber real or personal property or an interest in real or personal property that the district owns;
- (3) acquire or construct works, facilities, and improvements, as provided in Subsection 17B-1-103(2)(d), whether inside or outside the district or inside or outside the state;
- (4) acquire water, works, water rights, and sources of water necessary or convenient to the full exercise of the district's powers, whether the water, works, water rights, or sources of water are inside or outside the district or inside or outside the state, and encumber, transfer an interest in, or dispose of water, works, water rights, and sources of water;
- (5) develop, store, and transport water;
- (6) provide, sell, lease, and deliver water inside or outside the district for any lawful beneficial use;

(7) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district; and

(8) subscribe for, purchase, lease, or otherwise acquire stock in a canal company, irrigation company, water company, or water users association, for the purpose of acquiring the right to use water or water infrastructure.

Enacted by Chapter 329, 2007 General Session

**17B-2a-604. Metropolitan water district board of trustees.**

(1) Members of the board of trustees of a metropolitan water district shall be:

(a) elected in accordance with:

(i) the petition or resolution that initiated the process of creating the metropolitan water district; and

(ii) Section 17B-1-306;

(b) appointed in accordance with Subsection (2); or

(c) elected under Subsection (3)(a).

(2) (a) This Subsection (2) shall apply to an appointed board of trustees of a metropolitan water district.

(b) If a district contains the area of a single municipality:

(i) the legislative body of that municipality shall appoint each member of the board of trustees; and

(ii) one member shall be the officer with responsibility over the municipality's water supply and distribution system, if the system is municipally owned.

(c) If a district contains some or all of the retail water service area of more than one municipality:

(i) the legislative body of each municipality shall appoint the number of members for that municipality as determined under Subsection (2)(c)(ii);

(ii) subject to Subsection (2)(c)(iii), the number of members appointed by each municipality shall be determined:

(A) by agreement between the metropolitan water district and the municipalities, subject to the maximum stated in Subsection 17B-1-302(2); or

(B) as provided in Chapter 1, Part 3, Board of Trustees; and

(iii) at least one member shall be appointed by each municipality.

(d) Each trustee shall be appointed without regard to partisan political affiliations from among citizens of the highest integrity, attainment, competence, and standing in the community.

(3) (a) Members of the board of trustees of a metropolitan water district shall be elected in accordance with Section 17B-1-306, if, subject to Subsection (3)(b):

(i) three-fourths of all members of the board of trustees of the metropolitan water district vote in favor of changing to an elected board; and

(ii) the legislative body of each municipality that appoints a member to the board of trustees adopts a resolution approving the change to an elected board.

(b) A change to an elected board of trustees under Subsection (3)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.

(4) A member of the board of trustees of a metropolitan water district shall be:

- (a) a registered voter;
- (b) a property taxpayer; and
- (c) a resident of:
  - (i) the metropolitan water district; and
  - (ii) the retail water service area of the municipality that:
    - (A) elects the member; or
    - (B) the member is appointed to represent.

(5) (a) Except as provided in Subsection (7), a member shall immediately forfeit the member's seat on the board of trustees if the member becomes elected or appointed to office in or becomes an employee of the municipality whose legislative body appointed the member under Subsection (2).

(b) The position of the member described in Subsection (5)(a) is vacant until filled as provided in Section 17B-1-304.

(6) Except as provided in Subsection (7), the term of office of each member of the board of trustees is as provided in Section 17B-1-303.

(7) Subsections (4), (5)(a), and (6) do not apply to a member who is a member under Subsection (2)(b)(ii).

Amended by Chapter 159, 2010 General Session

**17B-2a-605. Preferential rights of cities.**

(1) Each city whose area is within a metropolitan water district and that provides water on a retail level within the district has a preferential right to purchase from the district a portion of the water served by the district.

(2) Except as otherwise provided by contract between a metropolitan water district and the city, the percentage of the total district water supply that a city has a preferential right to purchase under Subsection (1) is the same percentage as the total amount of taxes levied by the district against property within the city's retail water service area is of the total of all taxes levied by the district against all property within the district.

(3) (a) Nothing in this section may be construed to limit the ability of a metropolitan water district to establish preferential rights by contract with a city that has preferential rights under this section.

(b) Each agreement described in Subsection (3)(a) entered into before April 30, 2007 is ratified, validated, and confirmed.

Enacted by Chapter 329, 2007 General Session

**17B-2a-606. Rates, charges, and assessments.**

(1) (a) The board of trustees may fix the rates, charges, and assessments, from time to time, at which the district:

- (i) sells water; or
- (ii) charges for the treatment or transportation of water or for the dedication of water supplies or water treatment or conveyance capacities.

(b) The rates, charges, and assessments may be established by agreement between the district and the municipalities serviced by the district.

(2) Rates fixed under Subsection (1)(a) shall be equitable, although not necessarily equal or uniform, for like classes of service throughout the district.

(3) Each agreement described in Subsection (1)(b) entered into before April 30, 2007 that otherwise complies with the law is ratified, validated, and confirmed.

Enacted by Chapter 329, 2007 General Session

**17B-2a-607. Contracts with other corporations.**

(1) A metropolitan water district may:

(a) contract with one or more corporations, public or private, for the purpose of:

(i) financing acquisitions, constructions, or operations of the district; or

(ii) carrying out any of the district's powers;

(b) in a contract under Subsection (1)(a), obligate itself severally or jointly with the other corporation or corporations; and

(c) secure, guarantee, or become surety for the payment of an indebtedness or the performance of a contract or other obligation incurred or entered into by a corporation whose shares of stock the district has acquired.

(2) A contract under Subsection (1)(a) may:

(a) provide for:

(i) contributions to be made by each contracting party;

(ii) the division and apportionment of:

(A) the expenses of acquisitions and operations; and

(B) the contractual benefits, services, and products; and

(iii) an agency to make acquisitions and carry on operations under the contract;

and

(b) contain covenants and agreements as necessary or convenient to accomplish the purposes of the contract.

Enacted by Chapter 329, 2007 General Session

**17B-2a-608. Limit on property tax authority -- Exceptions.**

(1) As used in this section, "elected official" means a metropolitan water district board of trustee member who is elected to the board of trustees by metropolitan water district voters at an election held for that purpose.

(2) The board of trustees of a metropolitan water district may not collect property tax revenue in a tax year beginning on or after January 1, 2015, that would exceed the certified tax rate under Section 59-2-924 unless:

(a) the members of the board of trustees are all elected officials; or

(b) the proposed tax levy has previously been approved by:

(i) a majority of the metropolitan water district voters at an election held for that purpose on a date specified in Section 20A-1-204; or

(ii) the legislative body of each municipality that appoints a member to the board of trustees under Section 17B-2a-604.

Amended by Chapter 278, 2013 General Session

Amended by Chapter 415, 2013 General Session

**17B-2a-701. Title.**

This part is known as the "Mosquito Abatement District Act."

Enacted by Chapter 329, 2007 General Session

**17B-2a-702. Provisions applicable to mosquito abatement districts.**

(1) Each mosquito abatement district is governed by and has the powers stated in:

- (a) this part; and
- (b) Chapter 1, Provisions Applicable to All Local Districts.

(2) This part applies only to mosquito abatement districts.

(3) A mosquito abatement district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

Enacted by Chapter 329, 2007 General Session

**17B-2a-703. Additional mosquito abatement district powers.**

In addition to the powers conferred on a mosquito abatement district under Section 17B-1-103, a mosquito abatement district may:

(1) take all necessary and proper steps for the extermination of mosquitos, flies, crickets, grasshoppers, and other insects:

- (a) within the district; or
- (b) outside the district, if lands inside the district are benefitted;

(2) abate as nuisances all stagnant pools of water and other breeding places for mosquitos, flies, crickets, grasshoppers, or other insects anywhere inside or outside the state from which mosquitos migrate into the district;

(3) enter upon territory referred to in Subsections (1) and (2) in order to inspect and examine the territory and to remove from the territory, without notice, stagnant water or other breeding places for mosquitos, flies, crickets, grasshoppers, or other insects;

(4) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;

(5) make a contract to indemnify or compensate an owner of land or other property for injury or damage necessarily caused by the exercise of district powers or arising out of the use, taking, or damage of property for a district purpose; and

(6) establish a reserve fund, not to exceed the greater of 25% of the district's annual operating budget or \$50,000, to pay for extraordinary abatement measures, including a vector-borne public health emergency.

Amended by Chapter 377, 2014 General Session

**17B-2a-704. Mosquito abatement district board of trustees.**

(1) (a) Notwithstanding Subsection 17B-1-302(2):

(i) the board of trustees of a mosquito abatement district shall consist of no less

than five members appointed in accordance with this section; and

(ii) subject to Subsection (1)(b), the legislative body of each municipality that is entirely or partly included within a mosquito abatement district shall appoint one member to the board of trustees.

(b) If 75% or more of the area of a mosquito abatement district is within the boundaries of a single municipality:

(i) the board of trustees shall consist of five members; and

(ii) the legislative body of that municipality shall appoint all five members of the board.

(2) The legislative body of each county in which a mosquito abatement district is located shall appoint at least one member but no more than three members to the district's board of trustees as follows:

(a) one member may be appointed if:

(i) some or all of the county's unincorporated area is included within the boundaries of the mosquito abatement district and Subsection (2)(b) does not apply; or

(ii) (A) the number of municipalities that are entirely or partly included within the district is an even number less than nine; and

(B) Subsection (1)(b) does not apply; or

(b) subject to Subsection (3), up to and including three members may be appointed if:

(i) more than 25% of the population of the mosquito abatement district resides outside the boundaries of all municipalities that may appoint members to the board of trustees; and

(ii) at least four members of the board of trustees are appointed by a municipality.

(3) A member appointed in accordance with Subsection (2)(b) may not reside within a municipality that may appoint a member to the board of trustees.

(4) If the number of board members appointed by application of Subsections (1) and (2)(a) is an even number less than nine, the legislative body of the county in which the district is located shall appoint an additional member.

(5) Notwithstanding Subsection (2):

(a) if the mosquito abatement district is located entirely within one county and, in accordance with this section, only one municipality may appoint a member of the board of trustees, the county legislative body shall appoint at least four members to the district's board of trustees; and

(b) if the mosquito abatement district is located entirely within one county and no municipality may appoint a member of the board of trustees, all of the members of the board shall be appointed by the county legislative body.

(6) Each board of trustees member shall be appointed as provided in Section 17B-1-304.

(7) Each vacancy on a mosquito abatement district board of trustees shall be filled by the applicable appointing authority as provided in Section 17B-1-304, or if the vacancy is a midterm vacancy, as provided in Section 20A-1-512.

Amended by Chapter 97, 2012 General Session



**17B-2a-705. Taxation -- Additional levy -- Election.**

(1) If a mosquito abatement district board of trustees determines that the funds required during the next ensuing fiscal year will exceed the maximum amount that the district is authorized to levy under Subsection 17B-1-103(2)(g), the board of trustees may call an election on a date specified in Section 20A-1-204 and submit to district voters the question of whether the district should be authorized to impose an additional tax to raise the necessary additional funds.

(2) The board shall, for at least four weeks before the election:

(a) publish notice of the election in a daily or weekly newspaper published in the district; or

(b) if there is no daily or weekly newspaper published in the district, post notice of the election in three public places in the district.

(3) No particular form of ballot is required, and no informalities in conducting the election may invalidate the election, if it is otherwise fairly conducted.

(4) At the election each ballot shall contain the words, "Shall the district be authorized to impose an additional tax to raise the additional sum of \$\_\_\_\_\_?"

(5) The board of trustees shall canvass the votes cast at the election, and, if a majority of the votes cast are in favor of the imposition of the tax, the district is authorized to impose an additional levy to raise the additional amount of money required.

Amended by Chapter 415, 2013 General Session

**17B-2a-801. Title.**

This part is known as the "Public Transit District Act."

Enacted by Chapter 329, 2007 General Session

**17B-2a-802. Definitions.**

As used in this part:

(1) "Appointing entity" means the person, county, unincorporated area of a county, or municipality appointing a member to a public transit district board of trustees.

(2) (a) "Chief executive officer" means a person appointed by the board of trustees to serve as chief executive officer.

(b) "Chief executive officer" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 and includes all rights, duties, and responsibilities assigned to the general manager but prescribed by the board of trustees to be fulfilled by the chief executive officer.

(3) "Department" means the Department of Transportation created in Section 72-1-201.

(4) (a) "General manager" means a person appointed by the board of trustees to serve as general manager.

(b) "General manager" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 prescribed by the board of trustees.

(5) (a) "Locally elected public official" means a person who holds an elected position with a county or municipality.

(b) "Locally elected public official" does not include a person who holds an elected position if the elected position is not with a county or municipality.

(6) "Multicounty district" means a public transit district located in more than one county.

(7) "Operator" means a public entity or other person engaged in the transportation of passengers for hire.

(8) "Public transit" means the transportation of passengers only and their incidental baggage by means other than:

- (a) chartered bus;
- (b) sightseeing bus; or
- (c) taxi.

(9) "Transit facility" means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

- (a) leased by or operated by or on behalf of a public transit district; and
- (b) related to the public transit services provided by the district, including:
  - (i) railway or other right-of-way;
  - (ii) railway line; and
  - (iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

(10) "Transit-oriented development" means a mixed-use residential or commercial area that is designed to maximize access to public transit.

(11) "Transit vehicle" means a passenger bus, coach, railcar, van, or other vehicle operated as public transportation by a public transit district.

Amended by Chapter 146, 2011 General Session

**17B-2a-803. Provisions applicable to public transit districts.**

(1) (a) Each public transit district is governed by and has the powers stated in:

- (i) this part; and
- (ii) except as provided in Subsection (1)(b), Chapter 1, Provisions Applicable to All Local Districts.

(b) (i) Except for Sections 17B-1-301, 17B-1-311, and 17B-1-313, the following provisions do not apply to public transit districts:

- (A) Chapter 1, Part 3, Board of Trustees; and
- (B) Section 17B-2a-905.

(ii) A public transit district is not subject to Chapter 1, Part 6, Fiscal Procedures for Local Districts.

(2) This part applies only to public transit districts.

(3) A public transit district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

Amended by Chapter 364, 2009 General Session

**17B-2a-804. Additional public transit district powers.**

(1) In addition to the powers conferred on a public transit district under Section 17B-1-103, a public transit district may:

(a) provide a public transit system for the transportation of passengers and their incidental baggage;

(b) notwithstanding Subsection 17B-1-103(2)(g) and subject to Section 17B-2a-817, levy and collect property taxes only for the purpose of paying:

(i) principal and interest of bonded indebtedness of the public transit district; or

(ii) a final judgment against the public transit district if:

(A) the amount of the judgment exceeds the amount of any collectable insurance or indemnity policy; and

(B) the district is required by a final court order to levy a tax to pay the judgment;

(c) insure against:

(i) loss of revenues from damage to or destruction of some or all of a public transit system from any cause;

(ii) public liability;

(iii) property damage; or

(iv) any other type of event, act, or omission;

(d) acquire, contract for, lease, construct, own, operate, control, or use:

(i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal, parking lot, or any other facility necessary or convenient for public transit service; or

(ii) any structure necessary for access by persons and vehicles;

(e) (i) hire, lease, or contract for the supplying or management of a facility, operation, equipment, service, employee, or management staff of an operator; and

(ii) provide for a sublease or subcontract by the operator upon terms that are in the public interest;

(f) operate feeder bus lines and other feeder or ridesharing services as necessary;

(g) accept a grant, contribution, or loan, directly through the sale of securities or equipment trust certificates or otherwise, from the United States, or from a department, instrumentality, or agency of the United States;

(h) study and plan transit facilities in accordance with any legislation passed by Congress;

(i) cooperate with and enter into an agreement with the state or an agency of the state or otherwise contract to finance to establish transit facilities and equipment or to study or plan transit facilities;

(j) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;

(k) from bond proceeds or any other available funds, reimburse the state or an agency of the state for an advance or contribution from the state or state agency;

(l) do anything necessary to avail itself of any aid, assistance, or cooperation available under federal law, including complying with labor standards and making arrangements for employees required by the United States or a department, instrumentality, or agency of the United States;

(m) sell or lease property;

(n) assist in or operate transit-oriented or transit-supportive developments;

(o) establish, finance, participate as a limited partner or member in a development with limited liabilities in accordance with Subsection (1)(p), construct, improve, maintain, or operate transit facilities, equipment, and transit-oriented developments or transit-supportive developments; and

(p) subject to the restriction in Subsection (2), assist in a transit-oriented development or a transit-supportive development in connection with economic development by:

(i) investing in a project as a limited partner or a member, with limited liabilities; or

(ii) subordinating an ownership interest in real property owned by the public transit district.

(2) (a) A public transit district may only assist in the economic development of areas under Subsection (1)(p):

(i) in the manner described in Subsection (1)(p)(i) or (ii); and

(ii) on no more than eight transit-oriented developments or transit-supportive developments selected by the board of trustees.

(b) A public transit district may not invest in a transit-oriented development or transit-supportive development as a limited partner or other limited liability entity under the provisions of Subsection (1)(p)(i), unless the partners, developer, or other investor in the entity, makes an equity contribution equal to no less than 25% of the appraised value of the property to be contributed by the public transit district.

(c) A current board member of a public transit district to which the board member is appointed may not have any interest in the transactions engaged in by the public transit district pursuant to Subsection (1)(p)(i) or (ii), except as may be required by the board member's fiduciary duty as a board member.

(3) A public transit district may be funded from any combination of federal, state, local, or private funds.

(4) A public transit district may not acquire property by eminent domain.

Amended by Chapter 377, 2014 General Session

**17B-2a-805. Limitations on authority of a public transit district.**

(1) A public transit district may not exercise control over a transit facility or public transit service or system owned or operated inside or outside the district by a governmental entity unless, upon mutually agreeable terms, the governmental entity consents.

(2) (a) A public transit district may not establish, directly or indirectly, a public transit service or system, or acquire a facility necessary or incidental to a public transit service or system, in a manner or form that diverts, lessens, or competes for the patronage or revenue of a preexisting system of a publicly or privately owned public carrier furnishing like service, unless the district obtains the consent of the publicly or privately owned carrier.

(b) A public transit district's maintenance and operation of an existing system that the district acquires from a publicly or privately owned public carrier may not be considered to be the establishment of a public transit service or system under this Subsection (2).

(c) A public transit district's introduction, maintenance, or operation of a system may not be considered to be the establishment of a public transit service or system under this Subsection (2) if the service or system is introduced, maintained, or operated by the public transit district:

(i) as part of a program of projects approved by the Federal Transit Administration;

(ii) in cooperation with the state or a political subdivision of the state, pursuant to an interlocal agreement; or

(iii) in accordance with Title 72, Chapter 12, Travel Reduction Act.

Amended by Chapter 146, 2011 General Session

**17B-2a-806. Authority of the state or an agency of the state with respect to a public transit district -- Counties and municipalities authorized to provide funds to public transit district.**

(1) The state or an agency of the state may:

(a) make public contributions to a public transit district as in the judgment of the Legislature or governing board of the agency are necessary or proper;

(b) authorize a public transit district to perform, or aid and assist a public transit district in performing, an activity that the state or agency is authorized by law to perform.

(2) (a) A county or municipality involved in the establishment and operation of a public transit district may provide funds necessary for the operation and maintenance of the district.

(b) A county's use of property tax funds to establish and operate a public transit district within any part of the county is a county purpose under Section 17-53-220.

Enacted by Chapter 329, 2007 General Session

**17B-2a-807. Public transit district board of trustees -- Appointment -- Apportionment -- Qualifications -- Quorum -- Compensation -- Terms.**

(1) (a) If 200,000 people or fewer reside within the boundaries of a public transit district, the board of trustees shall consist of members appointed by the legislative bodies of each municipality, county, or unincorporated area within any county on the basis of one member for each full unit of regularly scheduled passenger routes proposed to be served by the district in each municipality or unincorporated area within any county in the following calendar year.

(b) For purposes of determining membership under Subsection (1)(a), the number of service miles comprising a unit shall be determined jointly by the legislative bodies of the municipalities or counties comprising the district.

(c) The board of trustees of a public transit district under this Subsection (1) may include a member that is a commissioner on the Transportation Commission created in Section 72-1-301 and appointed as provided in Subsection (11), who shall serve as a nonvoting, ex officio member.

(d) Members appointed under this Subsection (1) shall be appointed and added to the board or omitted from the board at the time scheduled routes are changed, or as

municipalities, counties, or unincorporated areas of counties annex to or withdraw from the district using the same appointment procedures.

(e) For purposes of appointing members under this Subsection (1), municipalities, counties, and unincorporated areas of counties in which regularly scheduled passenger routes proposed to be served by the district in the following calendar year is less than a full unit, as defined in Subsection (1)(b), may combine with any other similarly situated municipality or unincorporated area to form a whole unit and may appoint one member for each whole unit formed.

(2) (a) Subject to Section 17B-2a-807.5, if more than 200,000 people reside within the boundaries of a public transit district, the board of trustees shall consist of:

(i) 11 members:

(A) appointed as described under this Subsection (2); or

(B) retained in accordance with Section 17B-2a-807.5;

(ii) three members appointed as described in Subsection (4);

(iii) one voting member appointed as provided in Subsection (11); and

(iv) one nonvoting member appointed as provided in Subsection (12).

(b) Except as provided in Subsections (2)(c) and (d), the board shall apportion voting members to each county within the district using an average of:

(i) the proportion of population included in the district and residing within each county, rounded to the nearest 1/11 of the total transit district population; and

(ii) the cumulative proportion of transit sales and use tax collected from areas included in the district and within each county, rounded to the nearest 1/11 of the total cumulative transit sales and use tax collected for the transit district.

(c) The board shall join an entire or partial county not apportioned a voting member under this Subsection (2) with an adjacent county for representation. The combined apportionment basis included in the district of both counties shall be used for the apportionment.

(d) (i) If rounding to the nearest 1/11 of the total public transit district apportionment basis under Subsection (2)(b) results in an apportionment of more than 11 members, the county or combination of counties with the smallest additional fraction of a whole member proportion shall have one less member apportioned to it.

(ii) If rounding to the nearest 1/11 of the total public transit district apportionment basis under Subsection (2)(b) results in an apportionment of less than 11 members, the county or combination of counties with the largest additional fraction of a whole member proportion shall have one more member apportioned to it.

(e) If the population in the unincorporated area of a county is at least 140,000, the county executive, with the advice and consent of the county legislative body, shall appoint one voting member to represent the population within a county's unincorporated area.

(f) If a municipality's population is at least 160,000, the chief municipal executive, with the advice and consent of the municipal legislative body, shall appoint one voting member to represent the population within a municipality.

(g) (i) The number of voting members appointed from a county and municipalities within a county under Subsections (2)(e) and (f) shall be subtracted from the county's total voting member apportionment under this Subsection (2).

(ii) Notwithstanding Subsections (2)(l) and (10), no more than one voting

member appointed by an appointing entity may be a locally elected public official.

(h) If the entire county is within the district, the remaining voting members for the county shall represent the county or combination of counties, if Subsection (2)(c) applies, or the municipalities within the county.

(i) If the entire county is not within the district, and the county is not joined with another county under Subsection (2)(c), the remaining voting members for the county shall represent a municipality or combination of municipalities.

(j) (i) Except as provided under Subsections (2)(e) and (f), voting members representing counties, combinations of counties if Subsection (2)(c) applies, or municipalities within the county shall be designated and appointed by a simple majority of the chief executives of the municipalities within the county or combinations of counties if Subsection (2)(c) applies.

(ii) The appointments shall be made by joint written agreement of the appointing municipalities, with the consent and approval of the county legislative body of the county that has at least 1/11 of the district's apportionment basis.

(k) Voting members representing a municipality or combination of municipalities shall be designated and appointed by the chief executive officer of the municipality or simple majority of chief executive officers of municipalities with the consent of the legislative body of the municipality or municipalities.

(l) The appointment of members shall be made without regard to partisan political affiliation from among citizens in the community.

(m) Each member shall be a bona fide resident of the municipality, county, or unincorporated area or areas which the member is to represent for at least six months before the date of appointment, and shall continue in that residency to remain qualified to serve as a member.

(n) (i) All population figures used under this section shall be derived from the most recent official census or census estimate of the United States Bureau of the Census.

(ii) If population estimates are not available from the United States Bureau of Census, population figures shall be derived from the estimate from the Utah Population Estimates Committee.

(iii) All transit sales and use tax totals shall be obtained from the State Tax Commission.

(o) (i) The board shall be apportioned as provided under this section in conjunction with the decennial United States Census Bureau report every 10 years.

(ii) Within 120 days following the receipt of the population estimates under this Subsection (2)(o), the district shall reapportion representation on the board of trustees in accordance with this section.

(iii) The board shall adopt by resolution a schedule reflecting the current and proposed apportionment.

(iv) Upon adoption of the resolution, the board shall forward a copy of the resolution to each of its constituent entities as defined under Section 17B-1-701.

(v) The appointing entities gaining a new board member shall appoint a new member within 30 days following receipt of the resolution.

(vi) The appointing entities losing a board member shall inform the board of which member currently serving on the board will step down:

- (A) upon appointment of a new member under Subsection (2)(o)(v); or
- (B) in accordance with Section 17B-2a-807.5.

(3) Upon the completion of an annexation to a public transit district under Chapter 1, Part 4, Annexation, the annexed area shall have a representative on the board of trustees on the same basis as if the area had been included in the district as originally organized.

(4) In addition to the voting members appointed in accordance with Subsection (2), the board shall consist of three voting members appointed as follows:

- (a) one member appointed by the speaker of the House of Representatives;
- (b) one member appointed by the president of the Senate; and
- (c) one member appointed by the governor.

(5) Except as provided in Section 17B-2a-807.5, the terms of office of the members of the board shall be four years or until a successor is appointed, qualified, seated, and has taken the oath of office.

(6) (a) Vacancies for members shall be filled by the official appointing the member creating the vacancy for the unexpired term, unless the official fails to fill the vacancy within 90 days.

(b) If the appointing official under Subsection (1) does not fill the vacancy within 90 days, the board of trustees of the authority shall fill the vacancy.

(c) If the appointing official under Subsection (2) does not fill the vacancy within 90 days, the governor, with the advice and consent of the Senate, shall fill the vacancy.

(7) (a) Each voting member may cast one vote on all questions, orders, resolutions, and ordinances coming before the board of trustees.

(b) A majority of all voting members of the board of trustees are a quorum for the transaction of business.

(c) The affirmative vote of a majority of all voting members present at any meeting at which a quorum was initially present shall be necessary and, except as otherwise provided, is sufficient to carry any order, resolution, ordinance, or proposition before the board of trustees.

(8) Each public transit district shall pay to each member:

(a) an attendance fee of \$50 per board or committee meeting attended, not to exceed \$200 in any calendar month to any member; and

(b) reasonable mileage and expenses necessarily incurred to attend board or committee meetings.

(9) (a) Members of the initial board of trustees shall convene at the time and place fixed by the chief executive officer of the entity initiating the proceedings.

(b) The board of trustees shall elect from its voting membership a chair, vice chair, and secretary.

(c) The members elected under Subsection (9)(b) shall serve for a period of two years or until their successors shall be elected and qualified.

(d) On or after January 1, 2011, a locally elected public official is not eligible to serve as the chair, vice chair, or secretary of the board of trustees.

(10) (a) Except as otherwise authorized under Subsections (2)(g) and (10)(b) and Section 17B-2a-807.5, at the time of a member's appointment or during a member's tenure in office, a member may not hold any employment, except as an independent contractor or locally elected public official, with a county or municipality



within the district.

(b) A member appointed by a county or municipality may hold employment with the county or municipality if the employment is disclosed in writing and the public transit district board of trustees ratifies the appointment.

(11) The Transportation Commission created in Section 72-1-301:

(a) for a public transit district serving a population of 200,000 people or fewer, may appoint a commissioner of the Transportation Commission to serve on the board of trustees as a nonvoting, ex officio member; and

(b) for a public transit district serving a population of more than 200,000 people, shall appoint a commissioner of the Transportation Commission to serve on the board of trustees as a voting member.

(12) (a) The board of trustees of a public transit district serving a population of more than 200,000 people shall include a nonvoting member who represents all municipalities and unincorporated areas within the district that are located within a county that is not annexed into the public transit district.

(b) The nonvoting member representing the combination of municipalities and unincorporated areas described in Subsection (12)(a) shall be designated and appointed by a weighted vote of the majority of the chief executive officers of the municipalities described in Subsection (12)(a).

(c) Each municipality's vote under Subsection (12)(b) shall be weighted using the proportion of the public transit district population that resides within that municipality and the adjacent unincorporated areas within the same county.

(13) (a) (i) Each member of the board of trustees of a public transit district is subject to recall at any time by the legislative body of the county or municipality from which the member is appointed.

(ii) Each recall of a board of trustees member shall be made in the same manner as the original appointment.

(iii) The legislative body recalling a board of trustees member shall provide written notice to the member being recalled.

(b) Upon providing written notice to the board of trustees, a member of the board may resign from the board of trustees.

(c) Except as provided in Section 17B-2a-807.5, if a board member is recalled or resigns under this Subsection (13), the vacancy shall be filled as provided in Subsection (6).

Amended by Chapter 377, 2014 General Session

**17B-2a-807.5. Public transit district board of trustees -- Transitional provisions.**

(1) (a) A member appointed to a board of trustees in accordance with Subsection 17B-2a-807(2) prior to April 1, 2009, that is ineligible for reappointment under Subsection (3) may remain on the board of trustees and fulfill the member's appointment until July 1, 2010.

(b) The term of a member appointed to a board of trustees in accordance with Subsection 17B-2a-807(2) prior to April 1, 2009, that is ineligible for reappointment under Subsection (3) is extended until July 1, 2010 if the member's term of appointment

based on the term limits that existed at the time of the member's appointment expires prior to July 1, 2010.

(2) The term of a member appointed to a board of trustees in accordance with Subsection 17B-2a-807(2) prior to April 1, 2009, shall be extended by two years from the original date of appointment if the member is not ineligible for reappointment under Subsection (3).

(3) A member appointed to a board of trustees in accordance with Subsection 17B-2a-807(2) prior to April 1, 2009, is not eligible for reappointment to serve on the board of trustees upon expiration of the member's existing term if:

(a) (i) the appointing entity that appointed the member has appointed more than one member to the board of trustees that are locally elected public officials and the locally elected public officials are serving concurrently on the board of trustees;

(ii) the member is a locally elected public official that holds an elected position with a municipality; and

(iii) the other member appointed by the appointing entity described in Subsection (3)(a)(i) is a locally elected public official that holds an elected position with a county; or

(b) (i) the appointing entity that appointed the member:

(A) has appointed more than one member to the board of trustees; and

(B) does not have another member appointed by the appointing entity on the board of trustees that is ineligible under Subsection (3)(a);

(C) the member has served more than six months on April 1, 2009; and

(D) the member has served the least amount of time on the board of trustees of all members appointed by that appointing entity to the board of trustees that took the oath of office prior to November 1, 2008.

Enacted by Chapter 364, 2009 General Session

**17B-2a-808. Public transit district board of trustees powers and duties -- Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.**

(1) The powers and duties of a board of trustees of a public transit district stated in this section are in addition to the powers and duties stated in Section 17B-1-301.

(2) The board of trustees of each public transit district shall:

(a) appoint and fix the salary of a general manager, a chief executive officer, or both, as provided in Section 17B-2a-811;

(b) determine the transit facilities that the district should acquire or construct;

(c) supervise and regulate each transit facility that the district owns and operates, including:

(i) fixing rates, fares, rentals, and charges and any classifications of rates, fares, rentals, and charges; and

(ii) making and enforcing rules, regulations, contracts, practices, and schedules for or in connection with a transit facility that the district owns or controls;

(d) control the investment of all funds assigned to the district for investment, including funds:

(i) held as part of a district's retirement system; and

(ii) invested in accordance with the participating employees' designation or

direction pursuant to an employee deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code;

(e) invest all funds according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;

(f) if a custodian is appointed under Subsection (3)(d), pay the fees for the custodian's services from the interest earnings of the investment fund for which the custodian is appointed;

(g) (i) cause an annual audit of all district books and accounts to be made by an independent certified public accountant;

(ii) as soon as practicable after the close of each fiscal year, submit to the chief administrative officer and legislative body of each county and municipality with territory within the district a financial report showing:

(A) the result of district operations during the preceding fiscal year; and

(B) the district's financial status on the final day of the fiscal year; and

(iii) supply copies of the report under Subsection (2)(g)(ii) to the general public upon request in a quantity that the board considers appropriate;

(h) report at least annually to the Transportation Commission created in Section 72-1-301 the district's short-term and long-range public transit plans, including the transit portions of applicable regional transportation plans adopted by a metropolitan planning organization established under 23 U.S.C. Sec. 134;

(i) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits that the board of trustees determines to be the most critical to the success of the organization; and

(j) hear audit reports for audits conducted in accordance with Subsection (2)(i).

(3) A board of trustees of a public transit district may:

(a) subject to Subsection (5), make and pass ordinances, resolutions, and orders that are:

(i) not repugnant to the United States Constitution, the Utah Constitution, or the provisions of this part; and

(ii) necessary for:

(A) the government and management of the affairs of the district;

(B) the execution of district powers; and

(C) carrying into effect the provisions of this part;

(b) provide by resolution, under terms and conditions the board considers fit, for the payment of demands against the district without prior specific approval by the board, if the payment is:

(i) for a purpose for which the expenditure has been previously approved by the board;

(ii) in an amount no greater than the amount authorized; and

(iii) approved by the general manager or other officer or deputy as the board prescribes;

(c) (i) hold public hearings and subpoena witnesses; and

(ii) appoint district officers to conduct a hearing and require the officers to make findings and conclusions and report them to the board; and

(d) appoint a custodian for the funds and securities under its control, subject to Subsection (2)(f).

(4) A member of the board of trustees of a public transit district or a hearing officer designated by the board may administer oaths and affirmations in a district investigation or proceeding.

(5) (a) The vote of the board of trustees on each ordinance shall be by roll call vote with each affirmative and negative vote recorded.

(b) (i) Subject to Subsection (5)(b)(ii), the board of trustees may adopt a resolution or order by voice vote.

(ii) The vote of the board of trustees on a resolution or order shall be by roll call vote if a member of the board so demands.

(c) (i) Except as provided in Subsection (5)(c)(ii), the board of trustees of a public transit district may not adopt an ordinance unless it is:

(A) introduced at least a day before the board of trustees adopts it; or

(B) mailed by registered mail, postage prepaid, to each member of the board of trustees at least five days before the day upon which the ordinance is presented for adoption.

(ii) Subsection (5)(c)(i) does not apply if the ordinance is adopted by a unanimous vote of all board members present at a meeting at which at least 3/4 of all board members are present.

(d) Each ordinance adopted by a public transit district's board of trustees shall take effect upon adoption, unless the ordinance provides otherwise.

Amended by Chapter 281, 2010 General Session

**17B-2a-809. Public transit districts to submit agendas and minutes of board meetings.**

(1) The board of trustees of each public transit district shall submit to each constituent entity, as defined in Section 17B-1-701:

(a) a copy of the board agenda and a notice of the location and time of the board meeting within the same time frame provided to members of the board prior to the meeting; and

(b) a copy of the minutes of board meetings within five working days following approval of the minutes.

(2) The board may submit notices, agendas, and minutes by electronic mail if agreed to by the constituent entity as defined under Section 17B-1-701.

Renumbered and Amended by Chapter 329, 2007 General Session

**17B-2a-810. Officers of a public transit district.**

(1) (a) The officers of a public transit district shall consist of:

(i) the members of the board of trustees;

(ii) a chair and vice chair, appointed by the board of trustees, subject to Subsection (1)(c);

(iii) a secretary, appointed by the board of trustees;

(iv) a general manager, appointed by the board of trustees as provided in Section 17B-2a-811, whose duties may be allocated by the board of trustees, at the board of trustees' discretion, to a chief executive officer, or both;

- (v) a chief executive officer appointed by the board of trustees, as provided in Section 17B-2a-811;
  - (vi) a general counsel, appointed by the board of trustees, subject to Subsection (1)(d);
  - (vii) a treasurer, appointed as provided in Section 17B-1-633;
  - (viii) a comptroller, appointed by the board of trustees, subject to Subsection (1)(e);
  - (ix) an internal auditor, appointed by the board of trustees, subject to Subsection (1)(f); and
  - (x) other officers, assistants, and deputies that the board of trustees considers necessary.
- (b) The board of trustees may, at its discretion, appoint a president, who shall also be considered an officer of a public transit district.
- (c) The district chair and vice chair shall be members of the board of trustees.
- (d) The person appointed as general counsel shall:
- (i) be admitted to practice law in the state; and
  - (ii) have been actively engaged in the practice of law for at least seven years next preceding the appointment.
- (e) The person appointed as comptroller shall have been actively engaged in the practice of accounting for at least seven years next preceding the appointment.
- (f) The person appointed as internal auditor shall be a licensed certified internal auditor or certified public accountant with at least five years experience in the auditing or public accounting profession, or the equivalent, prior to appointment.
- (2) (a) The district's general manager or chief executive officer, as the board prescribes, shall appoint all officers and employees not specified in Subsection (1).
- (b) Each officer and employee appointed by the district's general manager or chief executive officer serves at the pleasure of the appointing general manager or chief executive officer.
- (3) The board of trustees shall by ordinance or resolution fix the compensation of all district officers and employees, except as otherwise provided in this part.
- (4) (a) Each officer appointed by the board of trustees or by the district's general manager or chief executive officer shall take the oath of office specified in Utah Constitution Article IV, Section 10.
- (b) Each oath under Subsection (4)(a) shall be subscribed and filed with the district secretary no later than 15 days after the commencement of the officer's term of office.

Amended by Chapter 281, 2010 General Session

**17B-2a-811. General manager or chief executive officer of a public transit district.**

- (1) (a) The board of trustees of a public transit district shall appoint a person as a general manager.
- (b) The board of trustees of a public transit district may, at its discretion, appoint a person as a chief executive officer.
- (c) The board of trustees of a public transit district shall allocate the

responsibilities defined in Subsection (2) between the general manager and the chief executive officer, if the board of trustees appoints a chief executive officer.

(d) The chief executive officer shall have the same rights allocated to the general manager under Subsections (3) and (4).

(e) The appointment of a general manager, chief executive officer, or both, shall be by the affirmative vote of a majority of all members of the board of trustees.

(f) The board's appointment of a person as general manager, chief executive officer, or both, shall be based on the person's qualifications, with special reference to the person's actual experience in or knowledge of accepted practices with respect to the duties of the office.

(g) A person appointed as general manager or chief executive officer of a public transit district is not required to be a resident of the state at the time of appointment.

(2) A general manager or chief executive officer of a public transit district shall have the following responsibilities as allocated by the board of trustees:

(a) be a full-time officer and devote full time to the district's business;

(b) ensure that all district ordinances are enforced;

(c) prepare and submit to the board of trustees, as soon as practical but not less than 45 days after the end of each fiscal year, a complete report on the district's finances and administrative activities for the preceding year;

(d) keep the board of trustees advised as to the district's needs;

(e) prepare or cause to be prepared all plans and specifications for the construction of district works;

(f) cause to be installed and maintained a system of auditing and accounting that completely shows the district's financial condition at all times; and

(g) attend meetings of the board of trustees.

(3) A general manager of a public transit district:

(a) serves at the pleasure of the board of trustees;

(b) holds office for an indefinite term;

(c) may be removed by the board of trustees upon the adoption of a resolution by the affirmative vote of a majority of all members of the board, subject to Subsection (5);

(d) has full charge of:

(i) the acquisition, construction, maintenance, and operation of district facilities; and

(ii) the administration of the district's business affairs;

(e) is entitled to participate in the deliberations of the board of trustees as to any matter before the board; and

(f) may not vote at a meeting of the board of trustees.

(4) The board of trustees may not reduce the general manager's salary below the amount fixed at the time of original appointment unless:

(a) the board adopts a resolution by a vote of a majority of all members; and

(b) if the general manager demands in writing, the board gives the general manager the opportunity to be publicly heard at a meeting of the board before the final vote on the resolution reducing the general manager's salary.

(5) (a) Before adopting a resolution providing for a general manager's removal as provided in Subsection (3)(c), the board shall, if the manager makes a written

demand:

(i) give the general manager a written statement of the reasons alleged for the general manager's removal; and

(ii) allow the general manager to be publicly heard at a meeting of the board of trustees.

(b) Notwithstanding Subsection (5)(a), the board of trustees of a public transit district may suspend a general manager from office pending and during a hearing under Subsection (5)(a)(ii).

(6) The action of a board of trustees suspending or removing a general manager or reducing the general manager's salary is final.

Amended by Chapter 281, 2010 General Session

**17B-2a-812. Comptroller required to provide statement of revenues and expenditures.**

The comptroller of each public transit district shall, as soon as possible after the close of each fiscal year:

(1) prepare a statement of revenues and expenditures for the fiscal year just ended, in the detail that the board of trustees prescribes; and

(2) transmit a copy of the statement to the chief executive officer of:

(a) each municipality within the district; and

(b) each county with unincorporated area within the district.

Enacted by Chapter 329, 2007 General Session

**17B-2a-813. Rights, benefits, and protective conditions for employees of a public transit district -- Strike prohibited -- Employees of an acquired transit system.**

(1) The rights, benefits, and other employee protective conditions and remedies of Section 13(c) of the Urban Mass Transportation Act of 1964, 49 U.S.C. Sec. 5333(b), as determined by the Secretary of Labor, apply to a public transit district's establishment and operation of a public transit service or system.

(2) (a) Employees of a public transit system established and operated by a public transit district have the right to:

(i) self-organization;

(ii) form, join, or assist labor organizations; and

(iii) bargain collectively through representatives of their own choosing.

(b) Employees of a public transit district and labor organizations may not join in a strike against the public transit system operated by the public transit district.

(c) Each public transit district shall:

(i) recognize and bargain exclusively with any labor organization representing a majority of the district's employees in an appropriate unit with respect to wages, salaries, hours, working conditions, and welfare, pension, and retirement provisions; and

(ii) upon reaching agreement with the labor organization, enter into and execute a written contract incorporating the agreement.

- (3) If a public transit district acquires an existing public transit system:
- (a) all employees of the acquired system who are necessary for the operation of the acquired system, except executive and administrative officers and employees, shall be:
    - (i) transferred to and appointed employees of the acquiring public transit district; and
    - (ii) given sick leave, seniority, vacation, and pension or retirement credits in accordance with the acquired system's records;
  - (b) members and beneficiaries of a pension or retirement plan or other program of benefits that the acquired system has established shall continue to have rights, privileges, benefits, obligations, and status with respect to that established plan or program; and
  - (c) the public transit district may establish, amend, or modify, by agreement with employees or their authorized representatives, the terms, conditions, and provisions of a pension or retirement plan or of an amendment or modification of a pension or retirement plan.
- (4) A pension administrator for a retirement plan sponsored by a public transit district or a person designated by the administrator shall maintain retirement records in accordance with Subsection 49-11-618(2).

Amended by Chapter 448, 2013 General Session

**17B-2a-814. Public transit district trustees, officers, and employees subject to Utah Public Officers' and Employees' Ethics Act.**

Each trustee, officer, and employee of a public transit district is subject to the provisions of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

Amended by Chapter 223, 2011 General Session

**17B-2a-815. Rates and charges for service -- Fare collection information private.**

- (1) The board of trustees of a public transit district shall fix rates and charges for service provided by the district by a two-thirds vote of all board members.
- (2) Rates and charges shall:
- (a) be reasonable; and
  - (b) to the extent practicable:
    - (i) result in enough revenue to make the public transit system self supporting; and
    - (ii) be sufficient to:
      - (A) pay for district operating expenses;
      - (B) provide for repairs, maintenance, and depreciation of works and property that the district owns or operates;
      - (C) provide for the purchase, lease, or acquisition of property and equipment;
      - (D) pay the interest and principal of bonds that the district issues; and
      - (E) pay for contracts, agreements, leases, and other legal liabilities that the district incurs.



(3) (a) In accordance with Section 63G-2-302, the following personal information received by the district from a customer through any debit, credit, or electronic fare payment process is a private record under Title 63G, Chapter 2, Government Records Access and Management Act:

- (i) travel data, including:
    - (A) the identity of the purchasing individual or entity;
    - (B) travel dates, times, or frequency of use; and
    - (C) locations of use;
  - (ii) service type or vehicle identification used by the customer;
  - (iii) the unique transit pass identifier assigned to the customer; or
  - (iv) customer account information, including the cardholder's name, the credit or debit card number, the card issuer identification, or any other related information.
- (b) Private records described in this Subsection (3) that are received by a public transit district may only be disclosed in accordance with Section 63G-2-202.

Amended by Chapter 216, 2013 General Session

**17B-2a-816. Hearing on a rate or charge or a proposal to fix the location of district facilities.**

(1) (a) The legislative body of a county or municipality with territory within a public transit district may, on behalf of a person who is a resident of the county or municipality, respectively, and who is a user of a public transit system operated by the public transit district, file a request for a hearing before the public transit district's board of trustees as to:

- (i) the reasonableness of a rate or charge fixed by the board of trustees; or
- (ii) a proposal for fixing the location of district facilities.

(b) Each request under Subsection (1)(a) shall:

- (i) be in writing;
- (ii) be filed with the board of trustees of the public transit district; and
- (iii) state the subject matter on which a hearing is requested.

(2) (a) At least 15 but not more than 60 days after a request under Subsection (1)(a) is filed, the public transit district's board of trustees shall hold a hearing on, as the case may be:

- (i) the reasonableness of a rate or charge fixed by the board of trustees; or
- (ii) a proposal for fixing the location of district facilities.

(b) The public transit district board of trustees shall provide notice of the hearing by:

- (i) mailing, postage prepaid, a notice to:
  - (A) the county or municipality requesting the hearing; and
  - (B) the legislative body of each other county and municipality with territory within the public transit district; and

- (ii) once publishing a notice.

(3) At each hearing under Subsection (2)(a):

(a) the legislative body of a county or municipality may intervene, be heard, and introduce evidence if the county or municipality:

- (i) is eligible to file a request for hearing under Subsection (1); and

- (ii) did not file a request for hearing;
- (b) the public transit district, the county or municipality that filed the request for hearing, and an intervening county or municipality under Subsection (3)(a) may:
  - (i) call and examine witnesses;
  - (ii) introduce exhibits;
  - (iii) cross-examine opposing witnesses on any matter relevant to the issues, even though the matter was not covered in direct examination; and
  - (iv) rebut evidence introduced by others;
- (c) evidence shall be taken on oath or affirmation;
- (d) technical rules of evidence need not be followed, regardless of the existence of a common law or statutory rule that makes improper the admission of evidence over objection in a civil action;
- (e) hearsay evidence is admissible in order to supplement or explain direct evidence, but is not sufficient in itself to support a finding unless it would be admissible over objection in a civil action; and
- (f) the public transit district board of trustees shall appoint a reporter to take a complete record of all proceedings and testimony before the board.
- (4) (a) Within 60 days after the conclusion of a hearing under Subsection (2)(a), the public transit district board of trustees shall render its decision in writing, together with written findings of fact.
- (b) The board of trustees shall mail by certified mail, postage prepaid, a copy of the decision and findings to:
  - (i) the county or municipality that filed a request under Subsection (1); and
  - (ii) each county and municipality that intervened under Subsection (3)(a).
- (5) In any action to review a decision of a public transit district board of trustees under this section, the record on review shall consist of:
  - (a) the written request for hearing, the transcript of the testimony at the hearing, and all exhibits introduced at the hearing; or
  - (b) if the parties stipulate in writing:
    - (i) the evidence specified in the stipulation; and
    - (ii) the written stipulation itself.

Enacted by Chapter 329, 2007 General Session

**17B-2a-817. Voter approval required for property tax levy.**

Notwithstanding the provisions of Section 17B-1-1001 and in addition to a property tax under Section 17B-1-1103 to pay general obligation bonds of the district, a public transit district may levy a property tax, as provided in and subject to Chapter 1, Part 10, Local District Property Tax Levy, if:

- (1) the district first submits the proposal to levy the property tax to voters within the district; and
- (2) a majority of voters within the district voting on the proposal vote in favor of the tax at an election held for that purpose on a date specified in Section 20A-1-204.

Amended by Chapter 415, 2013 General Session

**17B-2a-818. Requirements applicable to public transit district contracts.**

(1) A public transit district shall comply with the applicable provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(2) If construction of a district facility or work exceeds \$750,000, the construction shall be let as provided in:

- (a) Title 63G, Chapter 6a, Utah Procurement Code; and
- (b) Section 17B-2a-818.5.

Amended by Chapter 347, 2012 General Session

**17B-2a-818.5. Contracting powers of public transit districts -- Health insurance coverage.**

(1) For purposes of this section:

(a) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:

- (i) works at least 30 hours per calendar week; and
- (ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following 60 days from the date of hire.

(b) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.

(c) "Qualified health insurance coverage" is as defined in Section 26-40-115.

(d) "Subcontractor" has the same meaning provided for in Section 63A-5-208.

(2) (a) Except as provided in Subsection (3), this section applies to a design or construction contract entered into by the public transit district on or after July 1, 2009, and to a prime contractor or to a subcontractor in accordance with Subsection (2)(b).

(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of \$1,500,000 or greater.

(ii) A subcontractor is subject to this section if a subcontract is in the amount of \$750,000 or greater.

(3) This section does not apply if:

- (a) the application of this section jeopardizes the receipt of federal funds;
- (b) the contract is a sole source contract; or
- (c) the contract is an emergency procurement.

(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).

(b) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (2) is guilty of an infraction.

(5) (a) A contractor subject to Subsection (2) shall demonstrate to the public transit district that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employee's dependents during the duration of the contract.

(b) If a subcontractor of the contractor is subject to Subsection (2)(b), the contractor shall demonstrate to the public transit district that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's

employees and the employee's dependents during the duration of the contract.

(c) (i) (A) A contractor who fails to meet the requirements of Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (5)(b).

(ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during the duration of the contract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (5)(a).

(6) The public transit district shall adopt ordinances:

(a) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section 63A-5-205;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

and

(v) the Department of Transportation in accordance with Section 72-6-107.5;

and

(b) which establish:

(i) the requirements and procedures a contractor shall follow to demonstrate to the public transit district compliance with this section which shall include:

(A) that a contractor will not have to demonstrate compliance with Subsection (5)(a) or (b) more than twice in any 12-month period; and

(B) that the actuarially equivalent determination required for the qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency from either:

(I) the Utah Insurance Department;

(II) an actuary selected by the contractor or the contractor's insurer; or

(III) an underwriter who is responsible for developing the employer group's premium rates;

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the district shall post the benchmark for the qualified

health insurance coverage identified in Subsection (1)(c).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement of actuarial equivalency provided by an:

(I) actuary; or

(II) underwriter who is responsible for developing the employer group's premium rates; or

(B) a department or division determines that compliance with this section is not required under the provisions of Subsection (3) or (4).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6a-1603 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Amended by Chapter 425, 2014 General Session

**17B-2a-819. Compliance with state and local laws and regulations.**

(1) Each public transit district is subject to department regulations relating to safety appliances and procedures.

(2) (a) Each installation by a public transit district in a state highway or freeway is subject to the approval of the department.

(b) There is a presumption that the use of a street, road, highway, or other public place by a public transit district for any of the purposes permitted in this part constitutes no greater burden on an adjoining property than the use existing on July 9, 1969.

(c) If a street, road, or highway, excluding a state highway or freeway, or a pipeline, sewer, water main, storm drain, pole, or communication wire is required to be relocated, replaced, or altered in order for a public transit district to construct or operate its system or to preserve and maintain an already constructed district facility:

(i) the public or private owner of the facility required to be relocated, replaced, or altered shall relocate, replace, or alter the facility with reasonable promptness; and

(ii) the public transit district shall, by prior agreement, reimburse the owner for the reasonable cost incurred in the relocation, replacement, or alteration.

(d) (i) A public transit district may enter into an agreement with a county or municipality to:

(A) close a street or road over which the county or municipality has jurisdiction at or near the point of its interception with a district facility; or

(B) carry the street or road over or under or to a connection with a district facility.

(ii) A public transit district may do all work on a street or road under Subsection (2)(d)(i) as is necessary.

(iii) A street or road may not be closed, directly or indirectly, by the construction of a district facility unless the closure is:

(A) pursuant to agreement under Subsection (2)(d)(i); or

(B) temporarily necessary during the construction of a district facility.

(3) Each public transit district is subject to the laws and regulations of the state and each applicable municipality relating to traffic and operation of vehicles upon streets and highways.

Enacted by Chapter 329, 2007 General Session

**17B-2a-820. Authority for other governmental entities to acquire property by eminent domain for a public transit district.**

The state, a county, or a municipality may, by eminent domain under Title 78B, Chapter 6, Part 5, Eminent Domain, acquire within its boundaries a private property interest, including fee simple, easement, air right, right-of-way, or other interest, necessary for the establishment or operation of a public transit district.

Amended by Chapter 3, 2008 General Session

**17B-2a-821. Failure to pay fare -- Multicounty district may establish and enforce parking ordinance.**

(1) A person may not ride a transit vehicle without payment of the applicable fare established by the public transit district that operates the transit vehicle.

(2) The board of trustees of a multicounty district may adopt an ordinance governing parking of vehicles at a transit facility, including the imposition of a fine or civil penalty for a violation of the ordinance.

Amended by Chapter 377, 2014 General Session

**17B-2a-822. Multicounty district may employ or contract for law enforcement officers -- Law enforcement officer status, powers, and jurisdiction.**

(1) The board of trustees of a multicounty district may employ law enforcement officers or contract with other law enforcement agencies to provide law enforcement services for the district.

(2) A law enforcement officer employed or provided by contract under Subsection (1) is a law enforcement officer under Section 53-13-103 and shall be subject to the provisions of that section.

(3) Subject to the provisions of Section 53-13-103, the jurisdiction of a law enforcement officer employed under this section is limited to transit facilities and transit

vehicles.

Renumbered and Amended by Chapter 329, 2007 General Session

**17B-2a-823. Public transit district special services.**

(1) As used in this section, "bureau" means a recreational, tourist, or convention bureau established under Section 17-31-2.

(2) (a) A public transit district may lease its buses to private certified public carriers or operate transit services requested by a public entity if a bureau certifies that privately owned carriers furnishing like services or operating like equipment within the area served by the bureau:

- (i) have declined to provide the service; or
- (ii) do not have the equipment necessary to provide the service.

(b) A public transit district may lease its buses or operate services as authorized under Subsection (2)(a) outside of the area served by the district.

(3) If part or all of the transportation services are paid for by public funds, a public transit district may:

(a) provide school bus services for transportation of pupils and supervisory personnel between homes and school and other related school activities within the area served by the district; or

(b) provide the transportation of passengers covered by a program within the district for people who are elderly or who have a disability.

(4) Notwithstanding the provisions in Subsection (3), a municipality or county is not prohibited from providing the transportation services identified in Subsection (3).

Amended by Chapter 366, 2011 General Session

**17B-2a-824. Property acquired on behalf of a public transit district.**

(1) Title to property acquired on behalf of a public transit district under this part immediately and by operation of law vests in the public transit district.

(2) Property described in Subsection (1) is dedicated and set apart for the purposes set forth in this part.

Enacted by Chapter 329, 2007 General Session

**17B-2a-825. Criminal background checks authorized -- Employment eligibility.**

(1) A public transit district may require an individual described in Subsection (2) to:

(a) submit a fingerprint card in a form acceptable to the public transit district; and

- (b) consent to a fingerprint background check by:
- (i) the Utah Bureau of Criminal Identification; and
  - (ii) the Federal Bureau of Investigation.

(2) A person shall comply with the requirements of Subsection (1) if the person:

(a) is applying for or continuing employment with the public transit district:

- (i) working in a safety-sensitive position or other position that may affect:
    - (A) the safety or well-being of patrons of the public transit district; or
    - (B) the safety or security of the transit buildings, stations, platforms, railways, bus systems, and transit vehicles;
  - (ii) handling personally identifiable information, financial information, or other sensitive information including personal health information;
  - (iii) working in security-sensitive areas; or
  - (iv) handling security-sensitive information, including information system technologies; or
  - (b) is seeking access to designated security-sensitive areas.
- (3) A public transit district may use the information obtained in accordance with this section only for one or more of the following purposes:
- (a) to determine whether or not an individual is convicted of:
    - (i) a felony under federal or state law within the last 10 years;
    - (ii) a violation within the last 10 years of a federal law, state law, or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of an alcoholic beverage;
    - (iii) a crime involving moral turpitude; or
    - (iv) two or more convictions within the last 10 years for a violation of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug;
  - (b) to determine whether or not an individual has accurately disclosed the person's criminal history on an application or document filed with the public transit district;
  - (c) to approve or deny an application for employment with the public transit district; or
  - (d) to take disciplinary action against an employee of the public transit district, including possible termination of employment.
- (4) A person is not eligible for employment with a public transit district in a capacity described in Subsection (2) if the person has been convicted of any of the offenses described in Subsection (3).

Amended by Chapter 377, 2014 General Session

**17B-2a-901. Title.**

This part is known as the "Service Area Act."

Enacted by Chapter 329, 2007 General Session

**17B-2a-902. Provisions applicable to service areas.**

- (1) Each service area is governed by and has the powers stated in:
  - (a) this part; and
  - (b) except as provided in Subsection (5), Chapter 1, Provisions Applicable to All Local Districts.
- (2) This part applies only to service areas.
- (3) A service area is not subject to the provisions of any other part of this



chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

(5) (a) Except as provided in Subsection (5)(b), on or after December 31, 2012, a service area may not charge or collect a fee under Section 17B-1-643 for:

- (i) law enforcement services;
- (ii) fire protection services;
- (iii) 911 ambulance or paramedic services as defined in Section 26-8a-102 that are provided under a contract in accordance with Section 26-8a-405.2; or

- (iv) emergency services.

(b) Subsection (5)(a) does not apply to:

- (i) a fee charged or collected on an individual basis rather than a general basis;
- (ii) a non-911 service as defined in Section 26-8a-102 that is provided under a contract in accordance with Section 26-8a-405.2;

- (iii) an impact fee charged or collected for a public safety facility as defined in Section 11-36a-102; or

- (iv) a service area that includes within the boundary of the service area a county of the fifth or sixth class.

Amended by Chapter 189, 2014 General Session

**17B-2a-903. Additional service area powers -- Property tax limitation for service area providing law enforcement service.**

(1) In addition to the powers conferred on a service area under Section 17B-1-103, a service area:

- (a) may issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;

- (b) that, until April 30, 2007, was a regional service area, may provide park, recreation, or parkway services, or any combination of those services; and

- (c) may, with the consent of the county in which the service area is located, provide planning and zoning service.

(2) A service area that provides law enforcement service may not levy a property tax or increase its certified tax rate, as defined in Section 59-2-924, without the prior approval of:

- (a) (i) the legislative body of each municipality that is partly or entirely within the boundary of the service area; and

- (ii) the legislative body of the county with an unincorporated area within the boundary of the service area; or

- (b) (i) a majority of the legislative bodies of all municipalities that are partly or entirely within the boundary of the service area; and

- (ii) two-thirds of the legislative body of the county with an unincorporated area within the boundary of the service area.

Amended by Chapter 218, 2009 General Session

**17B-2a-904. Regional service areas to become service areas -- Change**

**from regional service area to service area not to affect rights, obligations, board makeup, or property of former regional service area.**

(1) Each regional service area, created and operating under the law in effect before April 30, 2007, becomes on that date a service area, governed by and subject to Chapter 1, Provisions Applicable to All Local Districts, and this part.

(2) The change of an entity from a regional service area to a service area under Subsection (1) does not affect:

(a) the entity's basic structure and operations or its nature as a body corporate and politic and a political subdivision of the state;

(b) the ability of the entity to provide the service that the entity:

(i) was authorized to provide before the change; and

(ii) provided before the change;

(c) the validity of the actions taken, bonds issued, or contracts or other obligations entered into by the entity before the change;

(d) the ability of the entity to continue to impose and collect taxes, fees, and other charges for the service it provides;

(e) the makeup of the board of trustees;

(f) the entity's ownership of property acquired before the change; or

(g) any other powers, rights, or obligations that the entity had before the change, except as modified by this part.

Enacted by Chapter 329, 2007 General Session

**17B-2a-905. Service area board of trustees.**

(1) (a) Except as provided in Subsection (2) or (3):

(i) the initial board of trustees of a service area located entirely within the unincorporated area of a single county may, as stated in the petition or resolution that initiated the process of creating the service area:

(A) consist of the county legislative body;

(B) be appointed, as provided in Section 17B-1-304; or

(C) be elected, as provided in Section 17B-1-306;

(ii) if the board of trustees of a service area consists of the county legislative body, the board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306; and

(iii) members of the board of trustees of a service area shall be elected, as provided in Section 17B-1-306, if:

(A) the service area is not entirely within the unincorporated area of a single county;

(B) a petition is filed with the board of trustees requesting that board members be elected, and the petition is signed by registered voters within the service area equal in number to at least 10% of the number of registered voters within the service area who voted at the last gubernatorial election; or

(C) an election is held to authorize the service area's issuance of bonds.

(b) If members of the board of trustees of a service area are required to be elected under Subsection (1)(a)(iii)(C) because of a bond election:

- (i) board members shall be elected in conjunction with the bond election;
- (ii) the board of trustees shall:
  - (A) establish a process to enable potential candidates to file a declaration of candidacy sufficiently in advance of the election; and
  - (B) provide a ballot for the election of board members separate from the bond ballot; and
- (iii) except as provided in this Subsection (1)(b), the election shall be held as provided in Section 17B-1-306.

(2) (a) This Subsection (2) applies to a service area created on or after May 5, 2003, if:

- (i) the service area was created to provide:
    - (A) fire protection, paramedic, and emergency services; or
    - (B) law enforcement service;
  - (ii) in the creation of the service area, an election was not required under Subsection 17B-1-214(3)(d); and
  - (iii) the service area is not a service area described in Subsection (3).
- (b) (i) Each county whose unincorporated area is included within a service area described in Subsection (2)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint three members to the board of trustees.
- (ii) Each municipality whose area is included within a service area described in Subsection (2)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.
- (iii) Each member appointed by a county or municipality under Subsection (2)(b)(i) or (ii) shall be an elected official of the appointing county or municipality, respectively.

(c) Notwithstanding Subsection 17B-1-302(2), the number of members of a board of trustees of a service area described in Subsection (2)(a) shall be the number resulting from application of Subsection (2)(b).

(3) (a) This Subsection (3) applies to a service area created on or after May 14, 2013, if:

- (i) the service area was created to provide fire protection, paramedic, and emergency services;
  - (ii) in the creation of the service area, an election was not required under Subsection 17B-1-214(3)(d); and
  - (iii) each municipality whose area is included within the service area or county whose unincorporated area, whether in whole or in part, is included within a service area is a party to an agreement:
    - (A) entered into in accordance with Title 11, Chapter 13, Interlocal Cooperation Act with all the other municipalities or counties whose area is included in the service area;
    - (B) to provide the services described in Subsection (3)(a)(i); and
    - (C) at the time a resolution proposing the creation of the service area is adopted by each applicable municipal or county legislative body in accordance with Subsection 17B-1-203(1)(d).
- (b) (i) Each county whose unincorporated area, whether in whole or in part, is included within a service area described in Subsection (3)(a), whether in conjunction

with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.

(ii) Each municipality whose area is included within a service area described in Subsection (3)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.

(iii) Each member appointed by a county or municipality under Subsection (3)(b)(i) or (ii) shall be an elected official of the appointing county or municipality, respectively.

(iv) A vote by a member of the board of trustees may be weighted or proportional.

(c) Notwithstanding Subsection 17B-1-302(2), the number of members of a board of trustees of a service area described in Subsection (3)(a) shall be the number resulting from the application of Subsection (3)(b).

Amended by Chapter 189, 2014 General Session

**17B-2a-907. Adding a new service within a service area.**

A service area may begin to provide within the boundaries of the service area a service that it had not previously provided by using the procedures set forth in Chapter 1, Part 2, Creation of a Local District, for the creation of a service area as though a new service area were being created to provide that service.

Renumbered and Amended by Chapter 329, 2007 General Session

**17B-2a-1001. Title.**

This part is known as the "Water Conservancy District Act."

Enacted by Chapter 329, 2007 General Session

**17B-2a-1002. Legislative intent -- Purpose of water conservancy districts.**

(1) It is the intent of the Legislature and the policy of the state to:

(a) provide for the conservation and development of the water and land resources of the state;

(b) provide for the greatest beneficial use of water within the state;

(c) control and make use of all unappropriated waters in the state and to apply those waters to direct and supplemental beneficial uses including domestic, manufacturing, irrigation, and power;

(d) obtain from water in the state the highest duty for domestic uses and irrigation of lands in the state within the terms of applicable interstate compacts and other law;

(e) cooperate with the United States and its agencies under federal reclamation or other laws and to construct, finance, operate, and maintain works in the state; and

(f) promote the greater prosperity and general welfare of the people of the state by encouraging the organization of water conservancy districts.

(2) The creation and operation of water conservancy districts are a public use to help accomplish the intent and policy stated in Subsection (1) and will:

- (a) be essentially for the benefit and advantage of the people of the state;
- (b) indirectly benefit all industries of the state;
- (c) indirectly benefit the state by increasing the value of taxable property in the state;
- (d) directly benefit municipalities by providing adequate supplies of water for domestic use;
- (e) directly benefit lands to be irrigated or drained;
- (f) directly benefit lands now under irrigation by stabilizing the flow of water in streams and by increasing flow and return flow of water to those streams; and
- (g) promote the comfort, safety, and welfare of the people of the state.

Enacted by Chapter 329, 2007 General Session

**17B-2a-1003. Provisions applicable to water conservancy districts.**

(1) Each water conservancy district is governed by and has the powers stated in:

- (a) this part; and
  - (b) Chapter 1, Provisions Applicable to All Local Districts.
- (2) This part applies only to water conservancy districts.
- (3) A water conservancy district is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

Enacted by Chapter 329, 2007 General Session

**17B-2a-1004. Additional water conservancy district powers -- Limitations on water conservancy districts.**

(1) In addition to the powers conferred on a water conservancy district under Section 17B-1-103, a water conservancy district may:

- (a) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;
- (b) acquire or lease any real or personal property or acquire any interest in real or personal property, as provided in Subsections 17B-1-103(2)(a) and (b), whether inside or outside the district;
- (c) acquire or construct works, facilities, or improvements, as provided in Subsection 17B-1-103(2)(d), whether inside or outside the district;
- (d) acquire water, works, water rights, and sources of water necessary or convenient to the full exercise of the district's powers, whether the water, works, water rights, or sources of water are inside or outside the district, and encumber, sell, lease, transfer an interest in, or dispose of water, works, water rights, and sources of water;
- (e) fix rates and terms for the sale, lease, or other disposal of water;
- (f) acquire rights to the use of water from works constructed or operated by the district or constructed or operated pursuant to a contract to which the district is a party, and sell rights to the use of water from those works;
- (g) levy assessments against lands within the district to which water is allotted

on the basis of:

- (i) a uniform district-wide value per acre foot of irrigation water; or
- (ii) a uniform unit-wide value per acre foot of irrigation water, if the board divides the district into units and fixes a different value per acre foot of water in the respective units;

- (h) fix rates for the sale, lease, or other disposal of water, other than irrigation water, at rates that are equitable, though not necessarily equal or uniform, for like classes of service;

- (i) adopt and modify plans and specifications for the works for which the district was organized;

- (j) investigate and promote water conservation and development;

- (k) appropriate and otherwise acquire water and water rights inside or outside the state;

- (l) develop, store, treat, and transport water;

- (m) acquire stock in canal companies, water companies, and water users associations;

- (n) acquire, construct, operate, or maintain works for the irrigation of land;

- (o) subject to Subsection (2), sell water and water services to individual customers and charge sufficient rates for the water and water services supplied;

- (p) own property for district purposes within the boundaries of a municipality;

and

- (q) coordinate water resource planning among public entities.

(2) (a) A water conservancy district and another political subdivision of the state may contract with each other, and a water conservancy district may contract with one or more public entities and private persons, for:

- (i) the joint operation or use of works owned by any party to the contract; or

- (ii) the sale, purchase, lease, exchange, or loan of water, water rights, works, or related services.

(b) An agreement under Subsection (2)(a) may provide for the joint use of works owned by one of the contracting parties if the agreement provides for reasonable compensation.

(c) A statutory requirement that a district supply water to its own residents on a priority basis does not apply to a contract under Subsection (2)(a).

(d) An agreement under Subsection (2)(a) may include terms that the parties determine, including:

- (i) a term of years specified by the contract;

- (ii) a requirement that the purchasing party make specified payments, without regard to actual taking or use;

- (iii) a requirement that the purchasing party pay user charges, charges for the availability of water or water facilities, or other charges for capital costs, debt service, operating and maintenance costs, and the maintenance of reasonable reserves, whether or not the related water, water rights, or facilities are acquired, completed, operable, or operating, and notwithstanding the suspension, interruption, interference, reduction, or curtailment of water or services for any reason;

- (iv) provisions for one or more parties to acquire an undivided ownership interest in, or a contractual right to the capacity, output, or services of, joint water facilities, and

establishing:

(A) the methods for financing the costs of acquisition, construction, and operation of the joint facilities;

(B) the method for allocating the costs of acquisition, construction, and operation of the facilities among the parties consistent with their respective interests in or rights to the facilities;

(C) a management committee comprised of representatives of the parties, which may be responsible for the acquisition, construction, and operation of the facilities as the parties determine; and

(D) the remedies upon a default by any party in the performance of its obligations under the contract, which may include a provision obligating or enabling the other parties to succeed to all or a portion of the ownership interest or contractual rights and obligations of the defaulting party; and

(v) provisions that a purchasing party make payments from:

(A) general or other funds of the purchasing party;

(B) the proceeds of assessments levied under this part;

(C) the proceeds of impact fees imposed by any party under Title 11, Chapter 36a, Impact Fees Act;

(D) revenues from the operation of the water system of a party receiving water or services under the contract;

(E) proceeds of any revenue-sharing arrangement between the parties, including amounts payable as a percentage of revenues or net revenues of the water system of a party receiving water or services under the contract; and

(F) any combination of the sources of payment listed in Subsections (2)(d)(v)(A) through (E).

(3) (a) A water conservancy district may enter into a contract with another state or a political subdivision of another state for the joint construction, operation, or ownership of a water facility.

(b) Water from any source in the state may be appropriated and used for beneficial purposes within another state only as provided in Title 73, Chapter 3a, Water Exports.

(4) (a) Except as provided in Subsection (4)(b), a water conservancy district may not sell water to a customer located within a municipality for domestic or culinary use without the consent of the municipality.

(b) Subsection (4)(a) does not apply if:

(i) the property of a customer to whom a water conservancy district sells water was, at the time the district began selling water to the customer, within an unincorporated area of a county; and

(ii) after the district begins selling water to the customer, the property becomes part of a municipality through municipal incorporation or annexation.

(5) A water conservancy district may not carry or transport water in transmountain diversion if title to the water was acquired by a municipality by eminent domain.

(6) A water conservancy district may not be required to obtain a franchise for the acquisition, ownership, operation, or maintenance of property.

(7) A water conservancy district may not acquire by eminent domain title to or

beneficial use of vested water rights for transmountain diversion.

Amended by Chapter 47, 2011 General Session

**17B-2a-1005. Water conservancy district board of trustees -- Selection of members -- Number -- Qualifications -- Terms -- Vacancies -- Surety bonds -- Authority.**

- (1) Members of the board of trustees for a water conservancy district shall be:
  - (a) elected in accordance with:
    - (i) the petition or resolution that initiated the process of creating the water conservancy district; and
    - (ii) Section 17B-1-306;
  - (b) appointed in accordance with Subsection (2); or
  - (c) elected under Subsection (4)(a).
- (2) (a) If the members of the board of trustees are appointed, within 45 days after the day on which a water conservancy district is created as provided in Section 17B-1-215, the board of trustees shall be appointed as provided in this Subsection (2).
  - (b) For a district located entirely within the boundaries of a single county, the county legislative body of that county shall appoint each trustee.
  - (c) (i) For a district located in more than a single county, the governor, with the consent of the Senate, shall appoint each trustee from nominees submitted as provided in this Subsection (2)(c).
  - (ii) (A) Except as provided in Subsection (2)(c)(ii)(B), in a division composed solely of municipalities, the legislative body of each municipality within the division shall submit two nominees per trustee.
    - (B) The legislative body of a municipality may submit fewer than two nominees per trustee if the legislative body certifies in writing to the governor that the legislative body is unable, after reasonably diligent effort, to identify two nominees who are willing and qualified to serve as trustee.
  - (iii) (A) Except as provided in Subsection (2)(c)(iii)(B), in all other divisions, the county legislative body of the county in which the division is located shall submit three nominees per trustee.
    - (B) The county legislative body may submit fewer than three nominees per trustee if the county legislative body certifies in writing to the governor that the county legislative body is unable, after reasonably diligent effort, to identify three nominees who are willing and qualified to serve as trustee.
  - (iv) If a trustee represents a division located in more than one county, the county legislative bodies of those counties shall collectively compile the list of three nominees.
  - (v) For purposes of this Subsection (2)(c), a municipality that is located in more than one county shall be considered to be located in only the county in which more of the municipal area is located than in any other county.
  - (d) In districts where substantial water is allocated for irrigated agriculture, one trustee appointed in that district shall be a person who owns irrigation rights and uses those rights as part of that person's livelihood.
- (3) (a) The board shall give written notice of the upcoming vacancy in an appointed trustee's term and the date when the trustee's term expires to the county



legislative body in single county districts and to the nominating entities and the governor in all other districts:

(i) if the upcoming vacancy is in a single county district, at least 90 days before the expiration of the trustee's term; and

(ii) for all other districts, on or before October 1 before the expiration of the appointed trustee's term.

(b) (i) Upon receipt of the notice of the expiration of an appointed trustee's term or notice of a vacancy in the office of an appointed trustee, the county or municipal legislative body, as the case may be, shall nominate candidates to fill the unexpired term of office pursuant to Subsection (2).

(ii) If a trustee is to be appointed by the governor and the entity charged with nominating candidates has not submitted the list of nominees within 90 days after service of the notice, the governor shall make the appointment from qualified candidates without consultation with the county or municipal legislative body.

(iii) If the governor fails to appoint, the incumbent shall continue to serve until a successor is appointed and qualified.

(iv) Appointment by the governor vests in the appointee, upon qualification, the authority to discharge the duties of trustee, subject only to the consent of the Senate.

(c) Each trustee shall hold office during the term for which appointed and until a successor is duly appointed and has qualified.

(4) (a) Members of the board of trustees of a water conservancy district shall be elected, if, subject to Subsection (4)(b):

(i) two-thirds of all members of the board of trustees of the water conservancy district vote in favor of changing to an elected board; and

(ii) the legislative body of each municipality or county that appoints a member to the board of trustees adopts a resolution approving the change to an elected board.

(b) A change to an elected board of trustees under Subsection (4)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.

(5) The board of trustees of a water conservancy district shall consist of:

(a) except as provided in Subsection (5)(b), not more than 11 persons who are residents of the district; or

(b) if the district consists of five or more counties, not more than 21 persons who are residents of the district.

(6) If an elected trustee's office is vacated, the vacated office shall be filled in accordance with Section 17B-1-303.

(7) Each trustee shall furnish a corporate surety bond at the expense of the district, conditioned for the faithful performance of duties as a trustee.

(8) (a) The board of trustees of a water conservancy district may:

(i) make and enforce all reasonable rules and regulations for the management, control, delivery, use, and distribution of water;

(ii) withhold the delivery of water with respect to which there is a default or delinquency of payment;

(iii) provide for and declare a forfeiture of the right to the use of water upon the default or failure to comply with an order, contract, or agreement for the purchase, lease, or use of water, and resell, lease, or otherwise dispose of water with respect to

which a forfeiture has been declared;

(iv) allocate and reallocate the use of water to lands within the district;

(v) provide for and grant the right, upon terms, to transfer water from lands to which water has been allocated to other lands within the district;

(vi) create a lien, as provided in this part, upon land to which the use of water is transferred;

(vii) discharge a lien from land to which a lien has attached; and

(viii) subject to Subsection (8)(b), enter into a written contract for the sale, lease, or other disposition of the use of water.

(b) (i) A contract under Subsection (8)(a)(viii) may provide for the use of water perpetually or for a specified term.

(ii) (A) If a contract under Subsection (8)(a)(viii) makes water available to the purchasing party without regard to actual taking or use, the board may require that the purchasing party give security for the payment to be made under the contract, unless the contract requires the purchasing party to pay for certain specified annual minimums.

(B) The security requirement under Subsection (8)(b)(ii)(A) in a contract with a public entity may be met by including in the contract a provision for the public entity's levy of a special assessment to make annual payments to the district.

Amended by Chapter 377, 2014 General Session

**17B-2a-1006. Limits on water conservancy district property tax levy --  
Additional levy.**

(1) Except as provided in Subsection (2), and subject to Subsection (3) and Section 17B-2a-1009, the property tax levy of a water conservancy district for all purposes may not exceed:

(a) .0001 per dollar of taxable value of taxable property in the district, before the earliest of:

(i) the planning or design of works;

(ii) the acquisition of the site or right-of-way on which the works will be constructed; or

(iii) the commencement of construction of the works; and

(b) .0002 per dollar of taxable value of taxable property in the district, after the earliest of the events listed in Subsection (1)(a).

(2) Subject to Subsection (3) and Section 17B-2a-1009:

(a) in a district that contains land located within the Lower Colorado River Basin, the levy after the earliest of the events listed in Subsection (1)(a) may be increased to a maximum of .001 per dollar of taxable value of taxable property in the district; and

(b) in a district to be served under a contract, water appropriation, water allotment, or otherwise by water apportioned by the Colorado River Compact to the Upper Basin, the levy after the earliest of the events listed in Subsection (1)(a) may be increased to a maximum of .0004 per dollar of taxable value of taxable property.

(3) A water conservancy district may impose an additional property tax levy, not to exceed .0001 per dollar of taxable value of taxable property in the district, if the additional levy is necessary to provide adequate funds to pay maturing bonds or other debts of the district.

Amended by Chapter 159, 2010 General Session

**17B-2a-1007. Contract assessments.**

(1) As used in this section:

(a) "Assessed land" means:

(i) for a contract assessment under a water contract with a private water user, the land owned by the private water user that receives the beneficial use of water under the water contract; or

(ii) for a contract assessment under a water contract with a public water user, the land within the boundaries of the public water user that is within the boundaries of the water conservancy district and that receives the beneficial use of water under the water contract.

(b) "Contract assessment" means an assessment levied as provided in this section by a water conservancy district on assessed land.

(c) "Governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town;

(ii) for a local district, the board of trustees of the local district;

(iii) for a special service district:

(A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(iv) for any other political subdivision of the state, the person or body with authority to govern the affairs of the political subdivision.

(d) "Petitioner" means a private petitioner or a public petitioner.

(e) "Private petitioner" means an owner of land within a water conservancy district who submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.

(f) "Private water user" means an owner of land within a water conservancy district who enters into a water contract with the district.

(g) "Public petitioner" means a political subdivision of the state:

(i) whose territory is partly or entirely within the boundaries of a water conservancy district; and

(ii) that submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.

(h) "Public water user" means a political subdivision of the state:

(i) whose territory is partly or entirely within the boundaries of a water conservancy district; and

(ii) that enters into a water contract with the district.

(i) "Water contract" means a contract between a water conservancy district and a private water user or a public water user under which the water user purchases, leases, or otherwise acquires the beneficial use of water from the water conservancy district for the benefit of:

(i) land owned by the private water user; or

(ii) land within the public water user's boundaries that is also within the boundaries of the water conservancy district.

(j) "Water user" means a private water user or a public water user.

(2) A water conservancy district may levy a contract assessment as provided in this section.

(3) (a) The governing body of a public petitioner may authorize its chief executive officer to submit a written petition on behalf of the public petitioner to a water conservancy district requesting to enter into a water contract.

(b) A private petitioner may submit a written petition to a water conservancy district requesting to enter into a water contract.

(c) Each petition under this Subsection (3) shall include:

(i) the petitioner's name;

(ii) the quantity of water the petitioner desires to purchase or otherwise acquire;

(iii) a description of the land upon which the water will be used;

(iv) the price to be paid for the water;

(v) the amount of any service, turnout, connection, distribution system, or other charge to be paid;

(vi) whether payment will be made in cash or annual installments;

(vii) a provision requiring the contract assessment to become a lien on the land for which the water is petitioned and is to be allotted; and

(viii) an agreement that the petitioner is bound by the provisions of this part and the rules and regulations of the water conservancy district board of trustees.

(4) (a) If the board of a water conservancy district desires to consider a petition submitted by a petitioner under Subsection (3), the board shall:

(i) publish notice of the petition and of the hearing required under Subsection

(4)(a)(ii) at least once a week in two successive weeks in a newspaper of general circulation within the county in which the political subdivision or private petitioner's land, as the case may be, is located; and

(ii) hold a public hearing on the petition.

(b) Each notice under Subsection (4)(a)(i) shall:

(i) state that a petition has been filed and that the district is considering levying a contract assessment; and

(ii) give the date, time, and place of the hearing required under Subsection (4)(a)(ii).

(c) (i) At each hearing required under Subsection (4)(a)(ii), the board of trustees of the water conservancy district shall:

(A) allow any interested person to appear and explain why the petition should not be granted; and

(B) consider each written objection to the granting of the petition that the board receives before or at the hearing.

(ii) The board of trustees may adjourn and reconvene the hearing as the board considers appropriate.

(d) (i) Any interested person may file with the board of the water conservancy district, at or before the hearing under Subsection (4)(a)(ii), a written objection to the district's granting a petition.

(ii) Each person who fails to submit a written objection within the time provided

under Subsection (4)(d)(i) is considered to have consented to the district's granting the petition and levying a contract assessment.

(5) After holding a public hearing as required under Subsection (4)(a)(ii), the board of trustees of a water conservancy district may:

(a) deny the petition; or

(b) grant the petition, if the board considers granting the petition to be in the best interests of the district.

(6) The board of a water conservancy district that grants a petition under this section may:

(a) make an allotment of water for the benefit of assessed land;

(b) authorize any necessary construction to provide for the use of water upon the terms and conditions stated in the water contract;

(c) divide the district into units and fix a different rate for water purchased or otherwise acquired and for other charges within each unit, if the rates and charges are equitable, although not equal and uniform, for similar classes of services throughout the district; and

(d) levy a contract assessment on assessed land.

(7) (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:

(i) cause a certified copy of the resolution, ordinance, or order levying the assessment to be recorded in the office of the recorder of each county in which assessed land is located; and

(ii) on or before July 1 of each year after levying the contract assessment, certify to the auditor of each county in which assessed land is located the amount of the contract assessment.

(b) Upon the recording of the resolution or ordinance under Subsection (7)(a)(i), the contract assessment associated with allotting water to the assessed land under the water contract becomes a perpetual lien on the assessed land.

(c) Each county in which assessed land is located shall collect the contract assessment in the same manner as taxes levied by the county.

(8) (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:

(i) hold a public hearing, before August 8 of each year in which a contract assessment is levied, to hear and consider objections filed under Subsection (8)(b); and

(ii) twice publish a notice, at least a week apart:

(A) (I) in a newspaper of general circulation in each county with assessed land included within the district boundaries; or

(II) if there is no newspaper of general circulation within the county, in a newspaper of general circulation in an adjoining county;

(B) that contains:

(I) a general description of the assessed land;

(II) the amount of the contract assessment; and

(III) the time and place of the public hearing under Subsection (8)(a)(i).

(b) An owner of assessed land within the water conservancy district who believes that the contract assessment on the owner's land is excessive, erroneous, or illegal may, before the hearing under Subsection (8)(a)(i), file with the board of trustees

a verified, written objection to the assessment, stating the grounds for the objection.

(c) (i) At each hearing under Subsection (8)(a)(i), the board of trustees shall hear and consider the evidence and arguments supporting each objection.

(ii) After hearing and considering the evidence and arguments supporting an objection, the board of trustees:

(A) shall enter a written order, stating its decision; and

(B) may modify the assessment.

(d) (i) An owner of assessed land may file a petition in district court seeking review of a board of trustees' order under Subsection (8)(c)(i)(A).

(ii) Each petition under Subsection (8)(d)(i) shall:

(A) be filed within 30 days after the board enters its written order;

(B) state specifically the part of the board's order for which review is sought; and

(C) be accompanied by a bond with good and sufficient security in an amount not exceeding \$200, as determined by the court clerk.

(iii) If more than one owner of assessed land seeks review, the court may, upon a showing that the reviews may be consolidated without injury to anyone's interests, consolidate the reviews and hear them together.

(iv) The court shall act as quickly as possible after a petition is filed.

(v) A court may not disturb a board of trustees' order unless the court finds that the contract assessment on the petitioner's assessed land is manifestly disproportionate to assessments imposed upon other land in the district.

(e) If no petition under Subsection (8)(d) is timely filed, the contract assessment is conclusively considered to have been made in proportion to the benefits conferred on the land in the district.

(9) Each resolution, ordinance, or order under which a water conservancy district levied a Class B, Class C, or Class D assessment before April 30, 2007 under the law in effect at the time of the levy is validated, ratified, and confirmed, and a water conservancy district may continue to levy the assessment according to the terms of the resolution, ordinance, or order.

(10) A contract assessment is not a levy of an ad valorem property tax and is not subject to the limits stated in Section 17B-2a-1006.

Amended by Chapter 360, 2008 General Session

**17B-2a-1008. Subdistricts to become water conservancy districts.**

Each water conservancy subdistrict, created and operating under the law in effect before April 30, 2007 and existing on April 30, 2007, shall, on that date, become a water conservancy district.

Enacted by Chapter 329, 2007 General Session

**17B-2a-1009. Limit on property tax authority -- Exceptions.**

(1) As used in this section, "elected official" means a water conservancy district board of trustee member who:

(a) is elected to the board of trustees by water conservancy district voters at an election held for that purpose;

(b) holds, at the time of appointment to the board of trustees, an elected position with a municipality, county, or local district that is partially or completely included within the boundaries of the water conservancy district; or

(c) is appointed in accordance with Subsection 17B-1-303(5) or 17B-1-306(4)(f) or (g).

(2) The board of trustees of a water conservancy district may not collect property tax revenue in a tax year beginning on or after January 1, 2015, that would exceed the certified tax rate under Section 59-2-924 unless:

(a) the members of the board of trustees are all elected officials;

(b) the majority of the board of trustees are elected officials; or

(c) the proposed tax levy has previously been approved by:

(i) a majority of the water conservancy district voters at an election held for that purpose on a date specified in Section 20A-1-204; or

(ii) for a district described in Subsection 17B-2a-1005(2)(b), the appointing authority.

Amended by Chapter 415, 2013 General Session

**17B-2a-1010. Capital asset assessment, maintenance, and replacement policy.**

(1) As used in this section:

(a) "Capital asset" means one of the following that is:

(i) a significant investment or an essential component necessary to provide a service, including:

(A) a facility;

(B) infrastructure, whether above or below ground level;

(C) equipment; or

(D) a communications network; and

(ii) owned by a qualified water conservancy district.

(b) "Policy" means the capital asset assessment, maintenance, and replacement policy required under Subsection (2).

(c) "Qualified capital asset" means a capital asset that is:

(i) identified in a policy in accordance with Subsection (2)(b); and

(ii) inventoried, assessed, funded, or otherwise subject to a qualified water conservancy's policy in accordance with this section.

(d) "Qualified water conservancy district" means a water conservancy district with an annual operating budget greater than \$5,000,000.

(2) (a) Each qualified water conservancy district shall adopt a policy for the assessment, maintenance, and replacement of capital assets that are qualified capital assets.

(b) The policy shall adopt language that defines in general or specific terms which capital assets are qualified capital assets.

(3) The policy shall require the qualified water conservancy district to:

(a) complete an inventory of each qualified capital asset, including for each qualified capital asset:

(i) an engineering description;

- (ii) location;
  - (iii) physical dimensions and condition;
  - (iv) documentation of the qualified capital asset's standard features;
  - (v) warranties;
  - (vi) maintenance history;
  - (vii) replacement costs;
  - (viii) market value;
  - (ix) original useful life; and
  - (x) remaining useful life; and
- (b) assess the physical condition of the qualified capital asset in accordance with a method established under Subsection (4)(a)(i) at least every five years.
- (4) (a) The policy shall establish:
- (i) a method to assess the physical condition of each qualified capital asset;
  - (ii) performance and condition standards for each qualified capital asset;
  - (iii) a program for monitoring and reporting the qualified water conservancy district's application of and compliance with the policy, including a comparison of each qualified capital asset's current status and targeted standards for that qualified capital asset as set forth in the policy;
  - (iv) a process for the qualified water conservancy district to evaluate existing qualified capital assets for efficiency and expected service delivery; and
  - (v) objective criteria for the qualified water conservancy district to prioritize maintenance or replacement of qualified capital assets.
- (b) A performance and condition standard described in Subsection (4)(a)(ii) may be:
- (i) a mandated safety standard;
  - (ii) a standard condition of receiving federal, state, or local funding; or
  - (iii) an applicable engineering or other professional standard.
- (5) As part of the policy, the qualified water conservancy district shall adopt financial guidelines to dedicate revenue to a priority qualified capital asset identified under Subsection (4)(a)(v) in accordance with a multiyear qualified capital plan described in Subsection (6)(a).
- (6) (a) Each qualified water conservancy district shall adopt a multiyear qualified capital asset plan.
- (b) Each qualified water conservancy district shall:
- (i) include criteria and guidelines in the policy for allocating sufficient funds in a multiyear qualified capital asset plan and in the qualified water conservancy district's annual operating budget for assessing, maintaining, repairing, and replacing qualified capital assets;
  - (ii) establish an ongoing source of funds in the multiyear qualified capital asset plan and each annual operating budget for repair and replacement costs of qualified capital assets in accordance with the policy; and
  - (iii) establish a repair and replacement reserve for capital projects in its capital projects fund and allocate from the repair and replacement reserve subject to Subsection 17B-1-612(5).
- (c) The board of trustees of a qualified water conservancy district shall adopt an annual operating budget that includes ongoing funding described in Subsection



(6)(b)(ii).

(7) (a) A qualified water conservancy district shall submit a report of the qualified water conservancy district's qualified capital asset facilities to the director of the Division of Water Resources, established in Section 73-10-18, no later than December 31, 2017, and no less than every five years thereafter.

(b) The qualified capital asset facilities report required under Subsection (7)(a) shall:

(i) describe the proposed replacement time frame for each qualified capital asset;

(ii) account for each funding source for the qualified capital asset and include any restrictions a funding source may impose on the use or disposal of qualified capital assets;

(iii) account for any change in a qualified capital asset's value since the last qualified capital asset facilities report submitted by the qualified water conservancy district; and

(iv) provide a statement of actual expenditures and performance data for each qualified capital asset compared to budgeted expenditures.

Enacted by Chapter 471, 2013 General Session

**17B-2a-1101. Title.**

This part is known as the "Municipal Services District Act."

Enacted by Chapter 405, 2014 General Session

**17B-2a-1102. Definitions.**

As used in this part, "municipal services" means:

(1) one or more of the services identified in Section 17-34-1 or 17-36-3; and

(2) any other municipal-type service provided in the district that is in the interest of the district.

Enacted by Chapter 405, 2014 General Session

**17B-2a-1103. Limited to counties of the first class -- Provisions applicable to municipal services districts.**

(1) (a) A municipal services district may be created only in unincorporated areas in a county of the first class.

(b) Notwithstanding Subsection (1)(a) and subject to Subsection (1)(c), after the initial creation of a municipal services district, an area may be annexed into the municipal services district in accordance with Chapter 1, Part 4, Annexation, whether that area is unincorporated or incorporated.

(c) An area annexed under Subsection (1)(b) may not be located outside of the originating county of the first class.

(2) Each municipal services district is governed by the powers stated in:

(a) this part; and

(b) Chapter 1, Provisions Applicable to All Local Districts.

(3) This part applies only to a municipal services district.

(4) A municipal services district is not subject to the provisions of any other part of this chapter.

(5) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provisions in this part govern.

Enacted by Chapter 405, 2014 General Session

**17B-2a-1104. Additional municipal services district powers.**

In addition to the powers conferred on a municipal services district under Section 17B-1-103, a municipal services district may:

(1) notwithstanding Subsection 17B-1-202(3), provide one or multiple municipal services; and

(2) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district.

Enacted by Chapter 405, 2014 General Session

**17B-2a-1105. Creation of municipal services district.**

(1) Notwithstanding any other provision of law, the process to create a municipal services district is initiated by a resolution proposing the creation of the municipal services district, adopted by the legislative body of the county whose unincorporated area includes any of the proposed municipal services district.

(2) The resolution described in Subsection (1) shall comply, as applicable, with the provisions of Subsection 17B-1-203(2)(a).

(3) The legislative body shall comply with the requirements of Sections 17B-1-210 through 17B-1-212.

Enacted by Chapter 405, 2014 General Session

**17B-2a-1106. Municipal services district board of trustees -- Governance.**

(1) Except as provided in Subsection (2), and notwithstanding any other provision of law regarding the membership of a local district board of trustees, the initial board of trustees of a municipal services district shall consist of the county legislative body.

(2) (a) Notwithstanding any provision of law regarding the membership of a local district board of trustees or the governance of a local district, if a municipal services district is created in a county of the first class with the county executive-council form of government, the initial governance of the municipal services district is as follows:

(i) subject to Subsection (2)(b), the county council is the municipal services district board of trustees; and

(ii) subject to Subsection (2)(c), the county executive is the executive of the municipal services district.

(b) Notwithstanding any other provision of law, the board of trustees of a municipal services district described in Subsection (2)(a) shall:

(i) act as the legislative body of the district; and

(ii) exercise legislative branch powers and responsibilities established for county legislative bodies in:

(A) Title 17, Counties; and

(B) an optional plan, as defined in Section 17-52-101, adopted for a county executive-council form of county government as described in Section 17-52-504.

(c) Notwithstanding any other provision of law, in a municipal services district described in Subsection (2)(a), the executive of the district shall:

(i) act as the executive of the district; and

(ii) exercise executive branch powers and responsibilities established for a county executive in:

(A) Title 17, Counties; and

(B) an optional plan, as defined in Section 17-52-101, adopted for a county executive-council form of county government as described in Section 17-52-504.

(3) If, after the initial creation of a municipal services district, an area within the district is incorporated as a municipality and the area is not withdrawn from the district in accordance with Section 17B-1-502, or an area within a municipality is annexed into the municipal services district in accordance with Section 17B-2a-1103:

(a) the district's board of trustees shall include a member of that municipality's governing body; and

(b) the member described in Subsection (3)(a) shall be:

(i) designated by the municipality; and

(ii) a member with powers and duties of other board of trustees members as described in Subsection (2)(b).

(4) The board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.

(5) (a) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of trustees may adopt a resolution to determine the internal governance of the board.

(b) A resolution adopted under Subsection (5)(a) may not alter or impair the board of trustees' duties, powers, or responsibilities described in Subsection (2)(b) or the executive's duties, powers, or responsibilities described in Subsection (2)(c).

Enacted by Chapter 405, 2014 General Session

**17B-2a-1107. Exclusion of rural real property.**

(1) As used in this section, "rural real property" means an area:

(a) zoned primarily for manufacturing, commercial, or agricultural purposes; and

(b) that does not include residential units with a density greater than one unit per acre.

(2) Unless an owner gives written consent, rural real property may not be included in a municipal services district if the rural real property:

(a) consists of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels;

(b) is not contiguous to but is used in connection with rural real property that consists of 1,500 acres or more contiguous acres of real property consisting of one or more tax parcels;

(c) is owned, managed, or controlled by a person, company, or association, including a parent, subsidiary, or affiliate related to the owner of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels; or

(d) is located in whole or in part in one of the following as defined in Section 17-41-101:

- (i) an agricultural protection area;
- (ii) a mining protection area; or
- (iii) an industrial protection area.

Enacted by Chapter 405, 2014 General Session

**17B-2a-1108. Municipality required to remit local option sales and use tax.**

(1) If, after incorporation, a municipal legislative body of a municipality located in whole or in part within a municipal services district does not adopt and deliver a resolution to withdraw in accordance with Subsection 17B-1-502(3)(a)(iii), the municipality shall remit to the municipal services district an amount equal to the amount the municipality receives under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act.

(2) For purposes of Subsection (1), the amount a municipality is required to remit to a municipal services district is an amount:

(a) determined after subtracting amounts required under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act, to be deducted from the amount a municipality would otherwise receive under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and

(b) representative of only those taxes collected in the area of the municipality that is also located within the municipal services district.

Enacted by Chapter 405, 2014 General Session

**17B-2a-1109. Counties and municipalities authorized to provide funds to a municipal services district.**

A county, or, subject to Section 17B-2a-1108, a municipality involved in the establishment and operation of a municipal services district may fund the operation and maintenance of the district through the sharing of sales tax revenue for district purposes.

Enacted by Chapter 405, 2014 General Session